IN RE

STATE BOARD OF LAW EXAMINERS

AND

NEW RULES OF ADMISSION

IDENTICAL COMMUNICATION, WITH EXHIBITS, TO MEMBERS OF COMMITTEE ON LEGAL EDUCATION OF PENNSYLVANIA BAR ASSOCIATION, [10 APR. 1903]

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INDEX

Identical Communication to members of the Committee on Legal Education, Pennsylvania Bar Association.

[NOTE.—In response to this communication 43 of the 56 members of the committee voted in favor of an application to the Supreme Court for a continuation of the suspension of the new rules of admission, until after the Bar Association Convention; 6 only voted in the negative. The President of the Bar Association promptly referred the request of the 43 members of the Committee on Legal Education to the Bar Memorial Committee. This committee did not meet until May 2d and the majority, including the members of the State Board of Law Examiners present, then decided that it was inexpedient to present the suggested application to the Court. Mr. Alexander will submit a minority report to the Association from the Bar Memorial Committee at the approaching convention.]

Philadelphia, 10 April, 1903.

DEAR SIR:

Exhibits A, B and C to this communication, and particularly described in the index on the opposite page, are self explanatory.

There is also enclosed for facility of reference a copy of the new rules of admission as promulgated by the Supreme Court on November 11, 1902, and published in the *Legal Intelligencer* of November 14, 1902, duly certified by the Prothonotary of the Supreme Court, E. D. The State Board of Law Examiners republished these rules as of March 15th, 1903, with modifications concerning the place and time of advertising by applicants, and with the addition of a new rule numbered "X" relating to the cases of attorneys from other jurisdictions, a copy of which is attached to the enclosed reprint of the new rules. Neither the changes as to advertising or the rule numbered "X" have as yet been promulgated by the Supreme Court.

The dissatisfaction with certain features of the new rules, as expressed by members of the profession interested in the subject, is so great that your attention, as a member of the Committee on Legal Education, is now called to the memo-

randum of defects (Exhibit B., reprinted p. 11, *infra*), that some action may, if deemed wise, be taken which will hold the new system in abeyance until the State Bar Association has considered it. One of the most important of the few Common Pleas Courts to adopt the Supreme Court system, has recently rescinded its action and reinstated its old rules of admission, and it is said will not adopt rules permitting admissions on the State Board's certificate so long as the duties of the examiners are performed by a proxy committee and not by the direct appointees of the Supreme Court, as in other states having the State Board system. It is understood that the Superior Court is not in accord with certain provisions of the new rules, and will take no action thereon until after the next Bar Association Convention, that opportunity may first be afforded the profession to speak. Furthermore it has been intimated that two members of the State Board have admitted themselves out of sympathy with salient provisions.

Some of the specifications in the memorandum of defects are not of vital importance, yet deserve consideration if any revision of the rules takes place. There are two points, however, which are deemed to be of the essence of the situation and affect the system to the core, to wit: (1) the dual board arrangement, that is, the plan for a paid board of "assistant examiners" appointed by the State Board to do the actual work (see specification XXI, p. 17, *infra*), the objection not being to the present appointees but to the system itself; and (2) the rule with reference to preliminary examinations (see specifications XII and XIV, p. 13 and p. 14 *infra*). Both of these defects are so serious that it is believed by the undersigned the enforcement of either will prevent a general acceptance of the Supreme Court system by the Courts of the various Judicial Districts throughout the Commonwealth, and without which the new system can hardly be other than a failure, resulting in two Bars for Pennsylvania, one for the Supreme Court, the other for the Common Pleas Courts.

The Supreme Court, although the order promulgating the new rules stated they were to take effect from the first Monday of January, 1903, practically suspended the new rules

on that date without any formal order, and has to this time been admitting candidates for its Bar under the provisions of the old rules, and since that date there have been about 400 admissions under the old rules. It may be that the Court has thus far permitted the new rules to remain in abeyance in order to afford an opportunity to members of the profession generally to express themselves, should they not be in accord with the system which the Supreme Court adopted *in the belief that it was what was desired by the Bar of the State.* Such an opportunity would naturally arise at the meeting of the State Bar Association commencing June 29th next. The State Board, however, which in fact drafted the new rules, has just announced preliminary and final examinations under the new system to commence June 23, 1903, so that when the Bar Association meets the new system will have been in full operation, yet for so short a time that the result thereof will be unknown, and it is probable that by reason of this there would then be hesitation on the part of members of the Bar to criticize defects which would unhesitatingly be pointed out if the new system were not actually in force. When a new plan is practically in operation it is the trend of the average man to let it stand; *quieta non movere.*

This communication is sent you in the hope that something may be done to get the system of a State Board of Law Examiners, which is so urgently desired by the Bar of the State at large, *started right.* If it once becomes established under the present defective rules it may be most difficult to secure modifications.

As the best, and probably only means of bringing the matter to a focus, you are respectfully requested as a member of the Committee on Legal Education of the Bar Association (a committee representative of the whole State, having a member thereon from each Judicial District), to sign the enclosed communication* to the Hon. C. LaRue Munson, President of the Pennsylvania Bar Association, stating whether or not you are of opinion the President of the Association should ask the Supreme Court to grant a committee appointed by him (small enough in size to be a practical working one, say

*Copy of the form for reply will be found on third page of cover facing p. 32 of this pamphlet.

of seven) a conference or hearing with reference to these new rules, to the end that if the Court is thereby led to believe there are substantial objections to the new rules, they may be suspended until after the Bar Association shall have had an opportunity to express itself at its convention during the last week in June. If the majority of your committee favor such an application, President Munson, as the official head of the Association, will deem it his duty to act, and it is not too much to hope that it would result in the Supreme Court suspending operations under the new rules until the Bar Association has had an opportunity to consider the subject at its approaching meeting, for the reason that it is undoubtedly the desire of the Court to have the new system of admissions accord with the enlightened views of the profession.

A copy of this communication was sent to the State Board of Law Examiners on April 1, 1903, with notice that it would be mailed to members of the Committee on Legal Education on April 10, 1903. As the advertising of candidates for admission must commence during the first week in May, by reason of the date fixed by the State Board for the first examinations, *it is important that President Munson should hear from you as speedily as possible*, that if an application is to be made to the Supreme Court, it may be in time to secure action before the advertisements have been transmitted to the various publishers throughout the State.

Yours truly,

LUCIEN H. ALEXANDER,

Individually, not as Secretary of the Committee presenting the Bar Memorial to the Supreme Court.

OPINION BY

HON. ALEX. SIMPSON, JR.

As the Pennsylvania Bar Association initiated the movement for the appointment of the State Board of Law Examiners, blame may be attributed to the Association should the new system result in failure, and as the present rules vary considerably from those acted upon by the Association through its Committee on Bar Memorial, I am of opinion that it is important for the members of the Committee on Legal Education to request the President of the Bar Association to take such steps as in his judgment will result in holding the new rules of admission in abeyance until the Association shall have had an opportunity to express itself with reference to the same at its 1903 meeting.

ALEX. SIMPSON, JR.
Of Committee on Bar Memorial to the Supreme Court.

April 10, 1903.

EXHIBIT A.

Identical communication to the Honorable, the Justices of the Supreme Court.

26 November, 1902.

DEAR SIR:

It is with some hesitancy that I address your Honor upon the subject of the new rules of admission. However, I have reached the conclusion that it is proper to do so, as the subject is one relating to the common interests of the profession and in no sense analogous to a litigated matter before the Court for determination.

In the first place, I beg respectfully to state that in my judgment every member of the Bar of Pennsylvania is under a debt of gratitude to the Justices of the Supreme Court for the considerate attention accorded the Bar Memorial and for the appointment of a State Board of Bar Examiners, and that I realize that in promulgating the new rules drafted by the State Board, the Court acted in the belief that the rules represented the wishes of the Bar. As I am in a position to hear a great deal on that subject and know that they do not in their present form voice the consensus of opinion at the Bar, and contain radical departures from the plan of the committee representing the Bar Association, and as I firmly believe they will fail to accomplish the result long striven for by the Bar Association, but on the contrary will tend to delay indefinitely its realization, I consider it would be a dereliction of duty both to the Court and to the profession to remain silent. Therefore I address the members of the Court individually in the hope that before the new rules are put into practical operation, and thereby grafted into the judicial system of Pennsylvania, the Court may be disposed to alter them. As indicative of my personal opinions—and in this connection I in no way speak for the Bar Association, but merely as an individual member of the Bar, who has in recent years devoted some considerable time to a study of the problem—I enclose some comments with reference to the new rules, recently transmitted to a member of the State Board of Law Examiners.* I also respectfully submit a printed memorandum† of specific points which seem to me to be defective in the new rules, and while I do not wish to intrude my views, I beg to say that should your Honor or any member of the Court desire it, I shall gladly prepare a more complete statement.

Were the rules the actual work of the Court I would long hesitate to voice a criticism, but as they were drafted by members of the State Board

*p. 8, *infra.*
†p. 11, *infra.*

who are but members of the Bar, the case is altered. As the latter have had no practical experience in the necessities of an examination system dealing with large numbers of candidates, and their draft bears on its face evidence of an imperfect knowledge, or at least oversight of some of the most important requisites of Bar admission regulations, that which in any event would be a distasteful task, becomes a plain though unpleasant duty.

It is pertinent here to remark that when the Court in May, 1901, requested the Bar Committee to submit a draft of the form into which the rules would naturally crystallize if the Memorial were sustained, a sub-committee composed of Messrs. Snodgrass and Pepper and the writer was appointed to prepare such a draft, and the result of their labors was carefully gone over and in some particulars amended by other members of the committee, including Mr. Dickson. The draft was finally pronounced by Mr. Hensel "polished and perfect" and was submitted to the Court in June, 1901, in type-written form. I urged that it be printed and a copy handed to each member of the Court, but the Chairman of the committee deemed this unnecessary. A year later, however, early in May, 1902, I took the responsibility of having the draft and explanatory notes printed in pamphlet form, an edition limited to twenty-five copies, each numbered, and sent the same to the Chairman for the use of the Court. No copies of the pamphlet were retained by me other than in proof, one of which I enclose for your Honor's information.* This draft was prepared only after a careful study of the conditions prevailing in the various sections of Pennsylvania and of the regulations governing admissions to the Bar in all the different states of the Union. The Bar Committee's draft endeavored so far as possible to preserve the existing methods and standards and to prevent unnecessary hardships to the candidates. While I have no pride of opinion and care nothing for the committee's draft, except as I believe it has substantial merits, I am of opinion that it is not open to any of the criticisms which have been passed upon the State Board's draft, and furthermore I believe it represents the consensus of opinion at the Bar on all salient points, and in addition it was not drafted to fit a Board willing to retain the honors, but desirous of escaping the *essential duties* of the office and actually asking to have them performed by hired assistants. On the contrary the Bar Committee's draft was prepared to meet the conditions existing in Pennsylvania and on lines known to work satisfactorily and smoothly in other state jurisdictions.

As the originator of this movement for a State Board of Law Examiners, I may be permitted to say that uniformity throughout the state in matters of admission was the main object desired to be attained, questions of high standards were and ought at this stage to be subsidiary, and may well be left to time and natural development. Actual uniformity will not result unless the Supreme Court's examinations are generally accepted by the Judges in the various Judicial Districts, and it may be assumed without question that they will not be so accepted unless the new system is one which will inspire confidence and impose no unnecessary hardships. I have no hesitancy in asserting that the system proposed by the State Board will not inspire confidence and that it will impose unnecessary hardships upon the candidates. If

*p. 21, *infra*.

put into operation in its present form two Bars will grow up in Pennsylvania, an appellate Courts' Bar and a Common Pleas' Bar, there will be conflict and dissension over the two systems and it will end, sooner or later, with the application of the legislative knife. To legislative regulation of admissions I am opposed, indeed I succeeded in 1900 in defeating the plan to go to the Legislature for the same, but upon the constitutionality of such regulation I am prepared to stake my professional reputation.

It is very respectfully suggested that in view of the dissent of one of the Justices of the Court* and the serious defects existing in the new rules, such a condition is presented as to warrant the Court in reconsidering the report of the State Board before the new admission rules become operative. With submission to your Honors the new system can yet be started right, and only in that way will it have a chance for its life.

Any seeming over-zealousness in this communication I trust your Honor will credit to my interest in the cause and believe me to remain,

Very respectfully,

LUCIEN H. ALEXANDER.

(Enclosure of above letter:)

COMMENTS UPON NEW ADMISSION RULES IN LETTER, 18 NOVEMBER, 1902, TO MEMBER OF STATE BOARD,† WHICH DRAFTED THE RULES.

"The new rules of admission are so carelessly drawn in some particulars and so faulty in others that they require careful revision in order to accomplish desired results. They are unnecessarily revolutionary in tendency and unwisely disturb existing standards and methods of examination, and I believe it to be merely a question of time until their radical amendment will be found necessary. I do not hesitate to pass these strictures upon the rules as I learn they are not the actual work of the Supreme Court, but were approved substantially as reported by the State Board, and because I feel it keenly that by many I am considered responsible for the rules in their present form. I am overrun with requests to construe them, which the Court alone can do, and which ought to be wholly unnecessary and would have been, had the rules been drawn by some one familiar with the necessities of the situation. Had the State Board taken into consultation Pepper, or some one else in touch with the practical end of Bar examinations, the present unfortunate situation would not exist.

"The Supreme Court has endeavored in every way possible to comply with the request of the Bar Association, and has undoubtedly promulgated these rules drafted by the State Board in the belief that they represent the wishes of the Bar, but I know that the rules as reported by the State Board do not, and I heartily endorse Mr. Justice Mestrezat's dissent. Of course I have refrained from any public criticisms upon the rules. It is, however, my intention unhesitatingly to point out in committee their defects, and by every proper

* Mr. Justice Mestrezat.

† Mr. Dickson.

means strive to secure their early alteration. I know of no one who has thoroughly investigated the subject and given it systematic study, who believes the rules in their present form will accomplish the objects the Bar Association has in view. A member of the Bar who knows more about the subject of legal education than anyone in the state—and in other matters I would call him the leader of the junior Bar—has not hesitated to say:

"'An attempt to work out a satisfactory result with a subordinate or an-
"'cillary Board will almost certainly end in failure. The proposition to com-
"'pel the holders of college degrees (academic) to submit to a preliminary
"'examination seems to me to be monstrous.'

There are numerous other faults, both of omission as well as of commission.

"Apart from the defects in the new rules, it is, however, a great gain to the profession that the principle has been established of a State Board of Bar Examiners appointed by and subject to the control of our highest appellate Court, and in consequence the work that has been done has not been in vain."

SUMMARY OF SPECIFICATIONS.

EXHIBIT B.

10 Copies printed.
Copy No.

MEMORANDUM *in re* DEFECTS IN THE NEW RULES OF ADMISSION RECOMMENDED BY THE STATE BOARD OF LAW EXAMINERS.

[*For Index-Summary see p. 10*]

26 NOVEMBER, 1902.

I.

The new rules are nine in number. The old rules of the Supreme Court with reference to admission are numbered rules 1, 2, 3 and 4. Rules of the Supreme Court 5 to 9, inclusive, relate to other matters than admission to the Bar. Rules 7, 8 and 9 refer entirely to criminal cases. In consequence when all the rules of the Supreme Court are next published, the new admission rules numbered 1 to 9 will come first and renumbering of all rules, from rule 5 to rule 94, will be necessary and much confusion will result. The new rules of admission should have been numbered so as not to interfere with the numbering of those subsequent to those amended. The Bar Committee's draft is not subject to this objection, as will appear by its draft* and note 1 thereto.

II.

The new rules do not provide that a candidate for admission shall be a citizen of the United States or that he shall have attained his majority. Under the old rules this was not so important, as the various county Courts had regulations concerning these essential matters.

III.

In rule I there is no provision for the admission of a man as a *counsellor* as well as an attorney. The certificates of admission to the Supreme Court Bar have for many years set forth that the new member of the Bar was admitted as "an attorney *and counsellor.*" In Pennsylvania of course this has no especial significance, but elsewhere, notably in New Jersey, the title "counsellor" adds weight to the standing of a lawyer from another state.

IV.

Despite the fact that by virtue of the provision of rule I that no person shall be admitted except upon recommendation of the State Board, etc.,

*p. 21, *infra*.

there are no other regulations in the new rules concerning the admission of attorneys from other jurisdictions. It is possible that the State Board in reporting its draft assumed that old rule IV would remain in force. However, if this be so the new rules are not complete and confusion will be apt to result. Furthermore old rule No. IV provides that an attorney from another state shall first be admitted to a Court of Common Pleas of this state. As it was the intent of the Bar Memorial to secure original admissions in the Supreme Court, in the hope that original admissions by County Courts would eventually be superseded, the Bar Committee in its draft suggested by its rule III regulations for the original admission of attorneys from other states. The reasons for the suggestions were elaborated in note No. 12 to the draft.*

V.

Rule I provides for admission only on "recommendation" of the State Board. If the State Board, in the exercise of its discretion, refused *to recommend* an admission they could not be mandamused to do so, and there would be no regular method of raising the question in case the Board should err. The substitution of the word "report" for "recommendation" would obviate this difficulty.

VI.

Rules II and III are inserted for the purpose of preventing the new rules from having a retroactive effect upon those not yet admitted to the Supreme Court Bar, but who are either now members of local Bars, or are students within the provisions of the rules of some judicial district. After a few years there will be no cases to which they are applicable, and in consequence they will be dead wood in the rules of admission. The Bar Committee suggested that such cases could be covered by general enabling orders, forms for which were outlined on pp. 5 and 6 of its draft.†

VII.

The word "now" in the second line of rule II will result in some confusion. Query: Does it refer to 11 November, 1902, the date the new rules were promulgated, or to the first Monday of January, 1903, when they take effect?

VIII.

In rule II the clause "after he shall have practised therein for at least two years" is unnecessary, for the applicants otherwise within the rule are to be admitted under the provisions of the old rules, and old rule I requires two years' practice.

IX.

In rule II the exception commencing "but this rule shall not apply to graduates of law schools" is causing much criticism at the Bar, for it has clearly, by the usual rules of interpretation, a retroactive effect. This qualification of the general exemption provision in the first part of rule II will make it impossible for any member of a county Bar who was admitted to a Common

*p. 30, *infra.*

†pp. 25 and 26, *infra.*

Pleas Court on a law school diploma within less than two years prior to the date intended to be fixed by the word "now," to be admitted, except by examination, to the Supreme Court Bar even if otherwise eligible for admission under the old rules. This they could have avoided by traveling to Pittsburg to be admitted at the October Term, 1902. If the State Board intended that the exception should have the meaning which would be clear and free from ambiguity, if the word "until" had been used in place of the word "unless," the rule would still be retroactive, as it would require them to practise two years in the lower Court, which is unnecessary under the old rules of the Supreme Court in the case of law school graduates, but furthermore it would make the entire exception to the exemption of rule II redundant, as such cases would then be fully covered by the first portion of rule II as reported by the State Board. Any way it is taken it is ambiguous and retroactive, discriminating against the members of local Bars, who have within two years been admitted on law school diplomas, in that it makes them subject to new regulations of the Supreme Court for admission. The Bar Memorial expressly petitioned against the incorporation of any retroactive provisions, and the draft for the rules of the Bar Committee avoided such provisions, and it is assumed the Supreme Court desires to avoid them.

X.

In the second line of rule III the words "this date" are subject to the same ambiguity as the word "now" of rule II, referred to under specification VII.

XI.

By the clause "the certificate of the Board of Examiners shall be conclusive evidence," etc., etc., in rule III, the point is not clear what Board of Examiners is meant, whether the local Board or the State Board. As both the Bar Memorial and the Bar Committee's draft for the rules suggested that the certificate of the local Judge should be conclusive evidence in this matter, it is presumed the State Board in drafting this provision intended it to refer to the local Board. If the local Board is intended, it is unwise, as it is to be hoped the local Boards will eventually be abolished; if the State Board is meant it is also unwise, as they are not in a position conclusively to determine local requirements. Furthermore the certificate of an examining Board should not be "conclusive evidence" of anything, as such a provision would do away with the Court's power to review. The Bar Memorial and the Bar Committee's draft (2d enabling order, p. 25) suggested that the better plan would be to have the certificate of the local Judge conclusive in such cases, and of course how he informs himself and satisfies his judgment is not important as to this particular provision, which in any event will become inoperative in the course of a few years.

XII.

Rule IV deals with registrations and preliminary examinations. The Bar Committee's recommendations on this subject are in rule II of its draft,*

*p. 22, *infra*.

and the subject of standards is fully discussed in note 6* to said draft. Rule IV of the State Board's report, aside from being stated in negative form, which should be avoided wherever possible, enumerates the subjects of examination. This permits of no flexibility and unnecessarily creates antagonisms from those not thoroughly posted upon *curricula.* Furthermore in the subjects as reported the Latin is out of proportion to the mathematics. The State Board's recommendation provided for an examination, *inter alia,* in the Ænid, and the rules were so promulgated by the Supreme Court, —it is assumed of course that the Æneid was intended. The Bar Committee was of opinion that the highest standard which should at the present time be insisted upon was the acquirement of a general education "equivalent to a substantial knowledge of the subjects taught in such high schools as may be approved by the Board." In Philadelphia County the writer urged the adoption of the Philadelphia High School course as the standard for the first judicial district, and that was finally recommended unanimously by the county Board and has been incorporated in the Philadelphia County rules of admission.

XIII.

Rule IV of the State Board's draft relates to the registration and preliminary examination of *students* only. Attorneys coming from jurisdictions outside the state, who have not studied or practised sufficiently long to entitle them to admission on grounds of comity, might well be required to pass the preliminary examination and register in accordance with the practice satisfactorily existing for some time in Allegheny County. Such a recommendation was made by the Bar Committee in the second paragraph of rule III of its draft.†

XIV.

Probably the most serious objection to the State Board's recommendations upon the subject of registration is the provision of rule IV requiring every applicant *actually to pass* the preliminary examination upon the subjects named. This is contrary to the practice of many years' standing in Philadelphia County, Allegheny County, Luzerne County, Cumberland County and Lackawanna County, and the most active man on the examining Boards of each of these counties has recently expressed himself as opposed to the adoption of this provision. So also has the active man in the examining Boards of Lycoming and Schuylkill Counties, which now examine all candidates. In these seven counties during the year 1901 there were more than 65 per cent. of the total applications in Pennsylvania for registration, and if opinions were obtained from the remaining sixty counties there is no doubt whatever but that there would be an overwhelming protest against the incorporation of such a provision in the new admission rules. The man best posted in Pennsylvania upon the subject of legal education has not hesitated to say with reference to this plan of the State Board: "The

* p. 28, *infra.*
† p. 23, *infra.*

"proposition to compel the holders of college degrees [academic] to submit to "a preliminary examination seems to me to be monstrous." The writer agrees with this view. The plan is contrary to the specific recommendation of the Pennsylvania Bar Association adopted as far back as 1897. The Bar Association's recommendation on this subject to the Common Pleas Courts for incorporation in admission rules was as follows: "If a student presents a "diploma in arts or science of a college in good educational standing, or a "certificate of admission to the freshman class of such a college, or a certifi- "cate of graduation from a high school or other preparatory school the certifi- "cate of which admits to the freshman class of such a college, he shall be "entitled to registration without preliminary examination." The committee reporting the recommendation had canvassed the different counties of the state for the consensus of opinion of the various Boards of Examiners, and reported as follows: "There seems to be a general approval of the acceptance "of a college degree or a school certificate, as provided for in this rule. Jeffer- "son County would dispense with the preliminary examination only upon pre- "sentation of a college diploma. The same is true of Montgomery, Indiana "and Somerset. Luzerne accepts the certificate of admission to the freshman "class of a college or of graduation from a high school, other preparatory "school, seminary or state normal school." The committee so reporting was composed of John W. Reed, Jefferson; Alfred Hayes, Union; F. G. Hobson, Montgomery; J. M. Force, Erie; Frederick Bertolette, Carbon; E. J. McNeelis, Cambria; and D. Watson Rowe, Franklin, Chairman.

This new rule, if not amended, will be sufficient of itself to shake confidence in the new system, its practical application will lead to the impression in the public mind that there is an attempt on foot to keep people out of the profession of the law, and will undoubtedly defeat the objects desired to be attained by the Bar Association in the establishment of a State Board. With such a provision in the rules of the Supreme Court the majority of the county Courts will assuredly adhere to the old system of local Boards and regulations.

It is not intended to suggest that graduates of approved colleges and high schools cannot pass a reasonable preliminary examination, but the fact is patent to anyone practically familiar with conditions existing that the college graduate will be unable successfully to pass an examination in the elementary subjects without a review which may take him several months. The writer heard Woodrow Wilson make the statement to the American Bar Association in 1894 that the members of the faculty of Princeton University could not pass the entrance examinations required of candidates for the freshman class for the simple reason that they had gotten away from the subjects. Of course if graduating from an approved high school in Pennsylvania or from an approved college does not imply of itself that a man has acquired sufficient education to study law, the requirement to examine is reasonable, otherwise it imposes an unnecessary hardship upon the candidates and puts no premium upon the work of the ambitious student, who forging ahead graduates from the high school and works his way through college.

XV.

Rule V established an iron clad rule with reference to the type of law schools in which registered students may study law. This subject was discussed in note 7* of the Bar Committee's draft, and the writer believes the Bar Committee's recommendation of law schools "approved by the Board of Examiners" will be productive of better results than that recommended by the State Board, yet the State Board's recommendation in this particular is not unreasonable and accords with the practice in some other jurisdictions.

XVI.

The Bar Committee's draft, in the third paragraph of its suggested rule II,† recommended a provision for *nunc pro tunc* registration upon recommendation of the State Board and reasons for the same were set forth in note 10. The new rules do not provide for this, and the result will be that if *nunc pro tunc* registrations are not provided for under reasonable regulations, hardships will often result to candidates, and if on the other hand applications must be made to the Court therefor, the Court will be overrun with motions and petitions for the same. It is respectfully submitted that this is a matter which could well be left to the good faith and discretion of the State Board, under such a rule as recommended by the Bar Committee, providing that the State Board shall have no discretion except under the circumstances set forth.

XVII.

Sections 3 and 4 of rule V provide for certificates to prove moral character. The Secretary of the State Board of Law Examiners of New York, who is the best posted man in the United States on the subject, wrote the writer some months ago: "Allow no proofs by certificate. Make every "person, applicant, attorney and law school authority swear to the facts. "Certificates have no moral weight, and our experience has been that many "attorneys will sign a certificate where they will not dare to make an affi- "davit." I endorse this view heartily after three years' experience as the Secretary of the Philadelphia Board of Examiners. In sections 1, 2 and 3 of rule V the phraseology is not good, and "shall" would be better than "must." In section 4 the principal verb is left to implication.

XVIII.

Rule VI provides that every applicant "must sustain a satisfactory examination in" the subjects named. This is a most unusual requirement. Michigan has one somewhat similar and the examination takes a week. Certain of the subjects are major ones, others are minor. The State Board ought to have a discretion and be permitted to use its judgment as to whether or not to examine in every subject. Candidates for admission of course "should be prepared for examination" in all the subjects, and they will not of course know in advance which of the minor subjects the Board will examine upon, but they ought not to be required to sustain a satisfactory examination in every subject. The State Boards doing the best work and

*p. 28, *infra*.

† p. 22, *infra*.

dealing with the largest number of applicants no longer give topical examinations. One hundred to two hundred questions are propounded and they are presumed to cover the field, and the candidate is passed or rejected on the results of the examination as a whole.

XIX.

With reference to the provision of rule VI that the candidate shall sustain a satisfactory examination in "Pennsylvania statutes and decisions," it is suggested that the provision is unreasonable and will appal the average student by reason of uncertainty as to what is meant thereby. The Bar Committee suggested in rule I of its draft* that the candidates should be prepared for examination in "the developments in Pennsylvania of the principles of the law, as exemplified by the decisions of this Court (i. e. Supreme Court) and statutory enactments."

XX.

Rule VII fixes five places in the state for the holding of the examinations. These five places are of course in but five counties. There are therefore sixty-two counties in Pennsylvania in which examinations will not be held. Many of them have a considerable number of candidates each year, and it is submitted that it will be an unnecessary hardship to compel candidates to go to the centers of population for examination and may result in the Judges of local Courts deciding to continue their local examinations. The Bar Memorial suggested a method (sec. 5 of p. 6 of Memorial, reported 1901 Pa. Bar Association's report, p. 119) by which an examination could be held simultaneously at every county seat upon application of five or more candidates. The rule could provide that such an examination could be held if there were only one application. The administration of such a system is purely a matter of detail. The Board of Regents of New York State conduct examinations in all subjects in every county of New York State and in various parts of the world simultaneously. The leading colleges have for years conducted simultaneous entrance examinations in the principal cities of the United States. The application of this plan to the State Board's work was first suggested by Hon. Samuel Gustine Thompson of the Bar Committee, who has had two or three years' experience on the Philadelphia Examining Board. It was acquiesced in by the others as a reasonable and practical plan. It is in line also with the inquiries of Mr. Justice Mitchell at the conference accorded the Bar Committee in chambers on 9 May, 1901. To require students from all over the state to go to particular points for examination will impose considerable expense upon them for traveling expenses and for board during the three or more days or week of the examinations, and will also have a tendency to unnerve them. A strange city and a strange bed are not conducive to good results in examinations.

XXI.

Rule VIII, if ever put into practical operation, with its scheme of a State Board and a "Board of Assistant Examiners," as the senior member of the

*p. 21, *infra*.

State Board terms it, in his interview in the Philadelphia Ledger of 14 November, 1902, will shake the confidence of the profession in the system. The man who is best posted in Pennsylvania on the subject of legal education has not hesitated to say, "An attempt to work out a satisfactory result with a "subordinate or ancillary Board will almost certainly end in failure." Another writes from Cumberland County: "The latter plan (an adjunct Board) "would complicate matters and might breed confusion." A third, a member of the examining Board of Lycoming County, says: "A State Board should "be composed of men who actually do the work of conducting the examinations "and marking the papers." The most active member of the Bar of Luzerne County in matters of admission writes: "I do not believe in a mere figurehead "Board that would by the general reputation of its members at once give the "impression that these men cannot be expected personally to attend to the "business theoretically imposed upon them. If a State Board of anywhere from "seven to fifteen members were appointed by the Supreme Court from among "members of those Bars at which applications are most numerous, with "some care that the personnel of membership in each county would bring "to the Board local respect and assurance of work faithfully done by those "upon whom the duty lies, I believe the moral effect would be much better "than if there were a nominal Board known to do no work, with subordi-"nates who would be practically clerks only. I do not want the false im-"pression that the Board now appointed by the Supreme Court is not, in "my opinion, the very best that could have been appointed for the purpose "of getting the work started and of framing preliminary rules as well as "planning the course of study, but when it comes down to the actual conduct-"ing of examinations I doubt very much whether any of the gentlemen "named would consider that they owe the profession the sacrifice that "would be involved in doing the work of examiners." And the man with more experience than any other in the United States refers to the plan as the "cumbersome and curious dual Board evolved by the Pennsylvania Committee," and he says that there are "many, good, reasonable, and practical objections which obtain against the usefulness and practicability" of the plan. In another communication he speaks of the importance of contact between the candidates and the Board, and of its absence says: "It will cause the "Board and the system a loss of prestige, in having it understood that the "examinations are of such a perfunctory character that they are purely "clerical functions, which anybody can perform, and it will rob the Board "of its principal merit—its personal contact (more or less) with the student." Against the dual board plan recommended by the State Board I desire earnestly to add my protest, and to suggest that it places the members of the State Board in the position, in relation to the system, which should be occupied only by the Justices of the Supreme Court. I believe it to be the worst feature of the recommendations of the State Board, and if allowed to stand, destined eventually to defeat practically all that was striven for in the presentation of the Bar Memorial.

The Bar Memorial prayed the appointment of a State Board *to examine.* The Court by its order of May 26th, 1902, "established a Board of Law Exam-

iners to whom all applications for admission to the Bar of this Court shall be referred *for examination,"* etc. The State Board, by their report, ask to be excused from the work of examining, and have assistants paid to do it, and they attempt to gloss over the pith of the suggestion by the provision that the members of the Board should serve without compensation—pecuniary compensation—totally ignoring the fact that the dollars and cents to become available cannot adequately pay earnest, able and zealous members of the Bar for the labors performed and the antagonisms created, but that the portion of the compensation which is of genuine value to them is the honor of holding the office and the feeling that the debt which every man is presumed to owe his profession is being discharged, a consideration that has caused many members of the Bar in the larger jurisdictions to sacrifice both practice and pleasure and to devote days and weeks and months through a series of years to examining hundreds of candidates without any pecuniary compensation whatever, and no reward other than the one named. These are facts, not theories. In every other state of the Union where they have examining Boards the members are willing and glad to perform the *essential duties* of the office. In New York State there is a Board of three, and I believe they examine upwards of 1500 candidates per year. In New Jersey the State Board has recently been reduced from six to three. In Maryland there is a Board of three, in Illinois, Massachusetts, Michigan, Boards of five, and so on through the list, and the members of the Boards all do the work, and I presume would as soon think of suggesting to the Courts that they have assistants to write their decisions for them, as to ask to have clerks appointed and paid to perform the *essential duty* of marking the examination papers. The Pennsylvania State Board's suggestion that they will be personally responsible for the proper marking of the papers, etc., is impossible of performance, unless they themselves read and mark the papers, and if they do that there is no necessity for employing and paying someone else to do it. Any such system as this will assuredly end in discord, complications and failure.

XXII.

Rule VII provides for the appointment of a Secretary and a Treasurer. The Board have the power to appoint from outside the Board, and it is evidently their intention to exercise it, and even the approval of the Court is not necessary. For practical reasons of administration the Secretary and Treasurer should be the same individual. It is essential to the satisfactory working of the system that he should be a member of the Board. He is by far the most important feature in the examination system. He comes in direct contact with the student body and the members of the profession interested in them. He personifies the entire system. He must be a man of discretion and he must have the power to exercise a wise discretion and speak with authority when answering the thousand and one queries which will be propounded to him from all sections of the state,—no mere clerk can possibly discharge the duties satisfactorily to the profession. The views of the Secretary and Treasurer of the New York State Board on this

subject are set forth verbatim in note 13* to the Bar Committee's draft for the admission rules and are of much practical value.

XXIII.

Rule VIII near its end, where the subject of fees is dealt with, fails to set out the maximum sum which can be paid from the fees to the examiners as salaries. There is no provision for accounting to the Court for the moneys received, for the deposit of the funds, for the giving of receipts, and the expenses are not defined, etc. These are matters of great importance and are covered by suggested rule IV of the Bar Committee's draft.†

XXIV.

Rule IX is unimportant and hardly necessary. The State Board can be depended upon to furnish necessary information without demanding compensation therefor. The Board should, however, be empowered officially to *recommend* a course of study to students, with names of text-books, without the advantages of a curriculum carefully prepared by preceptor or law school faculty.

XXV.

There are a number of other defects, but none of sufficient importance here to enumerate.

XXVI.

Had the State Board taken into consultation Pepper of Philadelphia, Harris, Chairman of the Lackawanna County Board, or some of the active members of the Allegheny County Board, the practical defects in the rules suggested by the State Board would probably have been avoided and the submission of this memorandum unnecessary, but this was not done, nor was the Bar Committee consulted by the State Board concerning the radical departures from the draft prepared by it in response to the request of the Court.

All of which is respectfully submitted.

LUCIEN H. ALEXANDER,
Individually, not as Secretary of
Bar Memorial Committee.

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*p. 30, *infra*.
†p. 24, *infra*.

EXHIBIT C.

25 Copies Printed
Copy No.

DRAFT FOR SUPREME COURT ADMISSION RULES PREPARED BY REQUEST OF THE COURT.

(The small numerals refer to the explanatory notes, commencing p. 27.)

JUNE, 1901.

RULE I.[1] No person shall be admitted to practise as an attorney and counsellor of this Court except upon report of the State Board of Law Examiners established by Rule IV, after the registry and period of study required by Rule II or in conformity to the provisions of Rule III.

Candidates for admission shall be of good moral character, citizens[2] of the United States, and at least twenty-one years of age, and shall be prepared for examination in Blackstone's Commentaries, constitutional law, including the constitutions of the United States and Pennsylvania, equity, the law of real and personal property, evidence, decedents' estates, landlord and tenant, contracts, partnership, corporations, crimes, torts, domestic relations, common law pleading and practice, Pennsylvania practice, the federal statutes relating to the judiciary and to bankruptcy, and the developments in Pennsylvania of the principles of the law, as exemplified by the decisions of this Court and statutory enactments.[3]

No action shall be had by the Board of Examiners upon any application for admission unless the candidate shall have

[1] *Vide* Note 1, p. 27, *infra*.
[2] *Vide* Note 2, p. 27, *infra*.
[3] *Vide* Note 3, p. 27, *infra*.

advertised his intention to apply for admission in a periodical, designated by the Board and published in the judicial district within which the applicant intends to maintain his office, and in the *Legal Intelligencer*, once a week during the four weeks immediately preceding his appearance before the Board.[4]

Every candidate, at least twenty-one days before each appearance before the Board on application for registration or admission, shall file the necessary credentials with the Board, in manner and form as it shall require, and shall at the same time pay to the Board a fee of twenty-five dollars[5] for expenses as set forth in Rule IV.

RULE II. Candidates intending to prepare for admission to the Bar of this Court shall satisfy the State Board of Law Examiners, at the commencement of their course of study that they have acquired an academic education equivalent to a substantial knowledge of the subjects taught in such Pennsylvania high schools as may be approved by the Board.[6]

It shall be the duty of every such candidate, who is attending or is about to attend a law school approved by the Board of Examiners,[7] upon receipt by him from the State Board of a certificate recommending his registration and certifying that he is qualified to commence the study of the law, to cause his name, age, place of residence and the name of the law school to be registered with the Prothonotary of the Eastern District;[8] and it shall be the duty of every attorney and counsellor of this Court to register with the said Prothonotary the name, age and place of residence of every person commencing the study of law by the service of a clerkship in his office, who has received a certificate from the State Board entitling him to registration, and the preceptor from the date of such registration shall assume personal oversight and direction of the said candidate's preparation for the Bar so long as he shall remain in his office.[9]

Where the filing of the certificate of registration has been omitted by excusable mistake and without fault of the candidate, or it shall be established to the satisfaction of the Board that the applicant, at the date as of which he desires to

[4] *Vide* Note 4, p. 27, *infra*.
[5] *Vide* Note 5, p. 28, *infra*.
[6] *Vide* Note 6, p. 28, *infra*.
[7] *Vide* Note 7, p. 28, *infra*.
[8] *Vide* Note 8, p. 29, *infra*.
[9] *Vide* Note 9, p. 29, *infra*.

be registered, was in possession of credentials entitling him to the Board's recommendation for registration, and that there has been no *laches* on his part in applying for the latter, the Board may authorize the registration to be made as of the proper date, but *nunc pro tunc* registration shall not be permitted under any other circumstances.[10]

Candidates for admission, who have spent three[11] years since the date of registration in the study of law, either by attendance in the regular course at a law school approved by the Board, to the satisfaction of the faculty thereof, or by the *bona fide* service of a regular clerkship in the office of a practising attorney of this Commonwealth, shall be eligible to appear before the Board for examination for admission to the Bar of this Court if they have complied in other respects with the requirements of the rules of admission of this Court.

Rule III. Attorneys from other states[12] who have practised for five years in a Court of record of the state from which they have removed, and who have been admitted to the Bar of its highest appellate Court, may be recommended by the State Board for admission upon grounds of comity upon producing satisfactory credentials as to good moral character and professional standing, including a recent certificate from the Chief Justice of its Court of last resort, and such candidates shall not be required to pay any fee to the Board for passing upon their credentials, *provided* that no attorney from another state shall be admitted upon grounds of comity, without examination and without the payment of the required fee, unless it shall appear that similar courtesies are extended to members of the Bar of Pennsylvania in the state from which the applicant has removed.

Attorneys from other jurisdictions, who are not within the above provisions, but who have been admitted, after at least two years' study, to the Bar of a Court of record of the State from which they have removed, and who present satisfactory credentials, including a certificate of good moral character and professional standing from the presiding judge of the highest Court at the bar of which the candidate last

[10] *Vide* Note 10, p. 29, *infra*.
[11] *Vide* Note 11, p. 29, *infra*.
[12] *Vide* Note 12, p. 30, *infra*.

regularly practised, may be recommended for admission on the results of examination, after registration in the office of the Prothonotary as provided in Rule II, and residence and study for one year thereafter within this State.

RULE IV. The State Board of Law Examiners, hereby established for the purpose of reporting upon the eligibility of candidates for admission to the Bar of this Court, shall consist of five members[13] of the Bar of this Commonwealth. The Board shall be constituted by appointment of this Court, with one member to serve during one year, two during two years, and two during three years, and at the expiration of these terms appointments shall be made for three years[14]. The members of the Board shall hold office only during the pleasure of the Court. Whenever a new member of the Board shall be appointed for a full term the Board shall organize by the election of one of its members to serve as President[15] and one to serve as Secretary and Treasurer. The President shall be the presiding officer of the Board. The Secretary and Treasurer shall be the administrative officer, and as such shall conduct the correspondence, keep the minutes, preserve the records and discharge the duties of treasurer.

Fees paid by candidates as required by Rule I, and for which receipts shall be issued, shall be forthwith deposited in a depository approved by the Court, and shall not be drawn out except for expenses and salaries, as hereinafter provided, upon order of the Board, signed by the Secretary and Treasurer and countersigned by the President. Full and accurate accounts shall be kept by the Board and a report annually submitted to this Court, summarizing the work of the preceding year and showing receipts and disbursements. From the fees received, after the deduction of necessary expenses, there shall be paid to each member of the Board a salary at the rate of two thousand dollars per annum, and such additional compensation as the Court may from time to time direct[16], *provided*, that if at any quarterly or semi-annual settlement there should not be sufficient funds to pay the

[13] *Vide* Note 13, p. 30, *infra*.
[14] *Vide* Note 14, p. 31, *infra*.
[15] *Vide* Note 15, p. 31, *infra*.
[16] *Vide* Note 16, p. 32, *infra*.

minimum salaries, the balance may be apportioned *pro rata* among the examiners. The expenses shall include such clerical and other hire as may be necessary and additional compensation to the Secretary and Treasurer of two thousand dollars per annum for the discharge of the administrative duties of that office.

The Board shall conduct examinations at least twice yearly in at least three places within the State, and shall, upon application of five candidates, be empowered to hold the same simultaneously at any county seat through proctors appointed by the local Court, by sending the examination questions in advance to the proctors, who in all respects shall be under the direction and control of the State Board, to which the examination papers shall be transmitted for action thereon.

The Board in their discretion may examine at any current examination any candidate who will be eligible to apply for examination before the date of the next following examination, but shall not recommend his admission prior to the expiration of the required period of study.[17]

ENABLING ORDERS.

As the Court will without doubt desire to guard any changes in the rules from being retroactive, it is respectfully suggested that the entry of some such order as the following would prove effective:

AND NOW, this day of 19 , the Court orders that any applicant for admission to the Bar of this Court who at this date is in good and regular standing at the Bar of a Court of Common Pleas of this Commonwealth, may be admitted upon report of the State Board of Law Examiners that he is eligible for admission under the provisions of the rules of this Court heretofore in force and this day amended, and no such candidate shall be required to advertise or to pay any fee to the Board for reporting upon his credentials.

It is further respectfully submitted that in order to accomplish desired results and make the proposed system imme-

diately effective in matters of admission as well as of registration, it would be advisable for the Court to enter some such enabling order as the following, as otherwise it would be three years before any students would be eligible for final examination before the State Board:

AND NOW, this day of 19 , the Court orders that any student at law who, on or prior to this date, commenced the study of the law, and who is within the provisions of the rules governing admissions to the Bar of the judicial district within which he resides or is a student, shall be permitted to apply to the State Board of Law Examiners for its recommendation upon his application for admission to the Bar of this Court at such date as he would be entitled to apply for admission in such judicial district, and the certificate of a Judge of the district to the effect that such candidate is eligible to appear for examination for admission in his district shall be conclusive evidence of eligibility to appear before the State Board for examination for admission to the Bar of this Court.

(The numbered notes refer to the corresponding numerals inserted in the Draft.*)

NOTE 1. In the preparation of this draft there has been an endeavor to condense necessary requirements into as small a space as possible. From a practical standpoint it has been deemed necessary to group the provisions into four rules to take the place of the first four rules of Court, which will be amended if the Bar Memorial is successful. It will be observed that Rule I deals with general provisions; Rule II with students either in law schools or offices; Rule III with attorneys from other jurisdictions; and Rule IV with the constitution and powers of the Board. As it has been assumed that the Board will be expected to adopt its own regulations to cover the details of administration, as occasion may require, minutiæ has been omitted wherever it has not been deemed essential.

NOTE 2. As to whether or not state citizenship should also be required is a question which merits serious consideration. In some states such citizenship is required, in others it is not. As the present rules of the Supreme Court do not specify it, it has not been inserted as a provision in the present draft.

NOTE 3. In grouping the subjects of examination there has been an endeavor to state the great heads of the law without unnecessarily naming sub-divisions; for example, the title "contracts" is presumed to include the sub-titles "agency" and "bills and notes"; "equity" to include such sub-division as "trusts"; "decedents' estates" the sub-titles "wills" and "administrators and executors"; etc., etc.

The State Board will doubtless find it advisable to recommend a course of study (with names of text-books) for the benefit of those who have not the advantages of a curriculum carefully prepared by preceptor or law school faculty, but it is not considered advisable to weight the Supreme Court rules with titles of text books which may become obsolete in a few years.

NOTE 4. The rules in many of the judicial districts require candidates for admission to advertise their applications, that notice may be given those who may know aught why a candidate should not be admitted. It is suggested that there should be such an advertisement within the district wherein the applicant expects to practise, and that it would also be of advantage if all the candidates were required to advertise in one paper within the state, that members of the bar and

* For Bar Committee's Draft, *vide* pp. 21-25, *supra*.

others may have an opportunity to inspect the entire list without the necessity of examining the advertisements in each judicial district. It is said that the *Legal Intelligencer* will print four insertions at the rate of fifty cents per candidate.

NOTE 5. It has been suggested by some that it would be advisable for the final examination fee to be fixed at fifty dollars, on the ground that that sum would not be oppressive to the candidates and would accumulate a fund which might enable the Court to secure the services upon the board of some of the ablest members of the bar. The committee believe, however, that the smaller amount will secure adequate talent and that it has the advantage of being in accord with the amount designated by the Legislature for appearance before the State Medical Board.

NOTE 6. It is believed that it is entirely reasonable to require that candidates shall acquire the education which may be attained without cost within the state. It is not intended that the candidate should have actually attended or graduated from a high school, but merely that he shall have attained an education equivalent to the course therein. It is recognized that there are many men who have acquired first-class educations, who, owing to the stress of circumstances, have been compelled to spend the daylight hours at the carpenter's bench and the blacksmith's anvil. It is believed that such men should be encouraged and no obstacles placed in their path. It is, however, considered important that the power should be left with the board to classify the high schools by approval of such as maintain satisfactory courses, as the standards of graduation from the high schools in this state vary greatly in different counties, there being no state control thereof. As the normal schools, subject to the common school statutes of this Commonwealth, are to this State what the high schools are to most of the other states, it is believed the normal school graduation standard, exclusive of the pedagogic studies, would be the proper one for registration, but it is probable that the term high school would be better understood. By the suggested rule the board will be free to determine the subjects of examination after an investigation of the curricula of the various high schools maintaining satisfactory standards.

NOTE 7. This clause is inserted as there are many institutions called law schools springing up here and there which should not be given judicial sanction; for example, it may be remarked without making invidious comparisons, that there is one in Philadelphia known as the Sharswood School of Law. Its standard is such that it would not be expedient to authorize young men to prepare for call to the bar by sole dependence upon its course of instruction. Its head and main stay is a New York attorney who has twice been refused admission to the Philadelphia Bar. It is submitted that the State Board could be

trusted to exercise an equitable discrimination in preparing an approved list of law schools and in adding thereto. Some courts of last resort approve of all law schools devoting a specified number of hours per week to instruction, but it is believed better results would be attained by an impartial investigation of standards by the State Board, which would always be answerable to and subject to the control of the Court.

NOTE 8. It would avoid confusion if all the registrations were entered in one office, and that of the Prothonotary of the Eastern District is suggested for the reason that the majority of the counties are in that district.

NOTE 9. It is respectfully submitted that this clause is of great importance, as the service of a clerkship in an office is in many instances degenerating into a farce, the preceptor merely lending the use of his name to the registered student, for which he often charges a fee, but extending no supervision to his course of study. In England "Articles of Clerkship" are still required, whereby, in consideration of the services, the preceptor "doth undertake and promise that he will by the best ways and means he may and can and to the utmost of his skill and knowledge teach and instruct or cause to be taught and instructed the said (the student), in the practice of the profession of a solicitor which he the said (the preceptor), now does or shall at any time hereafter, during the said term, use or practice."

No doubt the insertion in the rules of the suggested clause would, in the majority of cases, result in the awakening of a sense of responsibility upon the part of the preceptor, with corresponding advantage to the student and ultimately to the profession.

NOTE 10. Applications are frequently made in some of the judicial districts for *nunc pro tunc* registration. It is believed that provision should be made for such registration in proper cases and without the necessity of troubling the Court to consider them. The suggested provision with reference thereto is believed to cover every case which could arise in which *nunc pro tunc* registration should be permitted. It presents in concise form the doctrine as laid down in a number of decisions of the New York Court of Appeals. As has there been pointed out it is believed that the granting of promiscuous orders for *nunc pro tunc* registration defeats one of the principal objects of the registration requirement, which is to secure a certain educational standard upon the part of students at the *commencement* of their course of professional study.

NOTE 11. It is generally conceded that three years is sufficient for a candidate to prepare for the bar, and although it may not be long until four years may with propriety be demanded, as in the medical profession, it is doubtful if the time is ripe for the incorporation of such a provision in this state, especially as in nearly every judicial district three years is the period of study fixed by the rules of Court.

NOTE 12. The present Supreme Court rules with reference to the admission of attorneys from other jurisdictions do not require that a candidate for admission on grounds of comity should have been admitted to the Court of last resort of the state from which he comes, which admission may be said to be synonymous to admission to the bar of the state. Neither is there any provision in the present rules for the admission of attorneys from other states, by examination or otherwise, who have not practised for five years therein, and the only way by which such candidates may now be admitted to the Supreme Court bar is by the service of the clerkship required and two years' practice in a county court. In the draft submitted the first paragraph of Rule III* provides for admission to the highest appellate court of the state from which the candidate comes, as a prerequisite to an application for admission on grounds of comity, and in the second paragraph a provision is suggested whereby attorneys not eligible for admission on grounds of comity may be admitted upon examination after one year's study within this state. This provision is modeled after the present Allegheny County rule.

NOTE 13. A board of five members is suggested as it is believed it would be better able to accomplish the work of preliminary and final examinations than would a board of three, although the Boards contain three members in New York, Maryland and Georgia.

The administrative officer of the New York Board,† who has served in that capacity since its formation eight years ago, writes:

"Logically a perfect board of bar examiners is composed of one person, for there we have—what is absolutely to be desired—a complete uniformity in all things—in the character and quality of the question papers and in the judgment thereon as to the capacity of the applicants to practise law. The further removed we become from the unit the greater the diversity of thought and of judgment, and greater the differences in opinion as to the proper standard of education and character required for admission to the bar. A difference essentially necessary in the practical administration of the trust, however, and one to be sought after within bounds—for some examiners there should be, who rising from the ranks, have sympathy and knowledge of conditions surrounding those coming to the bar from the public schools and the self-educated as well as those, who coming to the bar sustained by wealth, have had the benefit of university and law school training. The board should be composed of practical men who will seek to raise the standard of the profession by degrees, and by encouraging those who are struggling under adverse circumstances of study, and who are not theorists who believe that those only are of the elect who are of the schools. Therefore a board of more than one is essential; there should be on it men of different views, of dissimilar education and of varying surroundings, yet of experience enough in life and of a judicial temperament that will recognize the right in others, and will harmonize in essentials and agree upon details. The greater the number of the board, the more difficult it will be to procure this necessary condition of uniformity recognizing all the problems involved, and therefore the smallest number, who can handle the work and who will be in this judicial state of mind is the best.

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* p. 23, *supra*.

† Hon. Franklin M. Danaher.

"If three men can do the work in Pennsylvania, three is a better board than five, but as it will take three men longer to do the work their compensation should be fixed according to the fact, and they should expect and be expected to devote their time to the work, when required, as a public duty prior to all other engagements.

"We have three examiners in New York and according to the manner of our profession, each is strenuous, but we harmonize; how it would be with five, we know not. Five is not a large number and would do, but three can work together with less friction and if properly diversified as above set forth and composed of men who love their work for the good they are accomplishing for the profession and the public, is amply sufficient for all purposes.

"I cannot quite determine from the pamphlet enclosed whether you intend to recommend a board consisting of three or five examiners, but in either event, if the administrative branch of the board is properly constituted and managed, you will find that it will take less time than you imagine. We have so systematized in this state that the entire administrative work falls upon myself as Secretary and Treasurer. All the minutiæ and detail of passing upon the preliminary conditions and the conformity of the applications to the rules, and the qualifications for admission *to the examination* are passed upon by the administrative officer without calling the board together.

"You will find that that will be quite essential in order to induce the men of great standing in the profession to assume the duties of a bar examiner, but that necessitates an absolutely fearless and unapproachable man, who is a strict constructionist, and who is not afraid of his job; who can withstand pressure (of which there will be much), and who is for the right and the law every time regardless of consequences. Pardon me—that reads very odd—that's not I—'tis your fellow.

"Such a man to be compensated out of the fees, in whom the board has absolute confidence, will cut the labor of the rest fifty per cent. If your law goes through I will be pleased to show our methods and exhibit our system to any of your committee who call on me to do so. We receive $2000 a year and our extra compensation has been fixed at $500 a year; in addition, we have allowance for clerk hire and all our other expenses are paid."

Note 14. It has been suggested that as the terms of an examiner are five years in many of the states it would be advisable to make the terms five years instead of three years, and to constitute the first board with five members, to serve one, two, three, four and five years respectively. It is submitted, however, that in this state where so much work will devolve upon members of the board (both preliminary and final examinations being necessary), a member of the bar might well hesitate to tie himself up for five years, while on the other hand if his services were acceptable to the Court and his time permitted, he would doubtless be honored by a re-appointment. For this reason it has been suggested that the terms be three years and not five.

Note 15. In the leading state jurisdictions the officers of the state board are usually designated by the names "President" for the presiding officer and "Secretary and Treasurer" for the administrative officer. As the officers of the local boards of Pennsylvania are usually

called Chairman and Secretary respectively, confusion with the officers of the state board would be avoided if the presiding officer were known as President and the administrative officer as Secretary and Treasurer.

NOTE 16. In New York State, although the examiners are relieved from the necessity of conducting the preliminary examinations, as these are under the control of the Board of Regents, for which there is no parallel in this state, they receive salaries of two thousand dollars per annum and such additional compensation as the Court directs. This extra compensation has been fixed at five hundred dollars each. It is estimated that there will at first be from 500 to 900 candidates per year for registration and admission in Pennsylvania. Should there be 700 candidates a fund would be created sufficient to pay the salaries suggested in the rule and leave three thousand dollars with which to cover other necessary expenses such as clerical hire, printing, stationery, renting examination rooms and administrative office, necessary traveling expenses of the Board and incidental expenses generally. For the information of the Court in considering what salaries would be proper for the members of the board, it is estimated that the examiners will doubtless be compelled to give to the work of the Board from one-fifth to one-third of their entire professional time per annum, and that the administrative officer during the first year or two until the system has become settled, will doubtless be required to devote nearly all his time.

NOTE 17. This provision is suggested that a candidate whose period of study will expire between examination sessions may not be compelled to defer his admission until after the next following examination, should he be qualified for admission. This is in accord with the practice in England.

Form for expression of either affirmative or negative opinion to President Munson.†

11 APRIL, 1903

Hon. C. LaRue Munson
President Pennsylvania Bar Association

Dear Sir:

As a member of the Committee on Legal Education I am of opinion that the interests of our profession will .....* be best conserved by the Supreme Court affording our Association an opportunity to express itself upon the new rules of admission before the system established thereby is put into actual operation.

I therefore request, if a majority of the Committee are of such opinion, that you will appoint a committee from the Bar of the State and pray the Court by petition, or by such other method as shall seem to you expedient, to accord this committee a conference or hearing, to the end that the new rules of admission may remain in abeyance until after the Association has held its Convention during the last week in June next.

Yours truly

Member of Committee on Legal Education
from.....Judicial District

(*Insert "not" and strike out last paragraph, if opposed to the suggested application to the Supreme Court.)

† See last paragraph p. 3.

In the Supreme Court. Memorial from Minority of Special Committee of Pennsylvania Bar Association *in re* Admission to the Bar.

To the Honorable, the Justices of the Supreme Court of Pennsylvania:

YOUR MEMORIALIST RESPECTFULLY REPRESENTS:

1. He is a member of the Committee of the Pennsylvania Bar Association appointed for the purpose of memorializing the Supreme and Superior Courts in the matter of admissions to the Bar.

2. In April, 1903, by a vote of 43 to 6, members of the Committee on Legal Education of said Association, containing one member from each judicial district in the Commonwealth, requested the President of the Bar Association to appoint a committee, as stated by him, "to pray the Supreme Court that the new rules of admission may remain in abeyance until after the Association has held its next convention." The President of the Association referred the matter to the Bar Memorial Committee. This committee containing, *inter alia,* the members of the State Board of Law Examiners and one member of the Assistant Board, met on May 2, 1903. Doubts were expressed as to the power of the committee to act, and also as to the expediency of taking any action, and the majority decided not to do so, your Memorialist dissenting. The Chairman of the State Board, who is also Chairman of the Bar Memorial Committee, informed the Bar Committee that "in order to relieve applicants for admission from hardship or inconvenience, the State Board of Examiners requested the Court to suspend temporarily the enforcement of the rules in reference to the admission of members of the Bars of Courts of Common Pleas who were eligible under the old rules, which was done." Your Memorialist is informed that to this time, although no formal order has been entered, the new rules have been under practical suspension and the old ones in force. He is also advised that the State Board have advertised to hold examinations under the new rules on June 23, 1903, and that the Pennsylvania Bar Association will convene on June 29, 1903.

Your Memorialist respectfully represents that as the new rules have thus far been held in abeyance, since the first Monday of January, 1903, at the request of the State Board of Law Examiners, "to relieve applicants for admission from hardship or inconvenience," as stated by the Chairman of the State Board and so reported to the Superior Court by the majority Memorial of the Bar Committee, there can be no impropriety in the request of members of the Committee on Legal Education, representing 43 judicial districts in the State, that the new rules of admission be *continued* in abeyance until after the Bar Association's convention.

Your Memorialist further respectfuliy submits that a *continuation* of the suspension of the new rules as prayed by the overwhelming majority of this committee, representative of every section of the State, would in no way result to the prejudice of candidates by postponing their registration or admission to practice, and would doubtless be welcomed by them, as their applications during the suspension would, as now, be passed upon by this Court or the local Courts, in accordance with the former practice. Furthermore, to relieve the members of this year's graduating class in the Law Department of the University of Pennsylvania, who have had less than a year's notice of the new system, from compliance with its requirements, would be the exercise of an equitable discretion, in keeping with the well-known repugnance of this Court to *ex post facto* regulations, for these young men entered the law school nearly three years ago, and have pursued their studies until last November, less than six months ago, in reliance upon the old rules of this Court authorizing their admission upon their diplomas. Of the candidates who have advertised their intention to appear before the State Board in June for examination for admission, 69, or more than 60 per cent., are from the University Law School, but 29 are from offices in Philadelphia County, 9 from Allegheny County, and 3 each from the counties of Lebanon and Lehigh. Thus, excluding the University Law School men, candidates from but *four* counties have advertised to avail themselves of the proposed June examination for admission, and under the terms of the new rules no others, after this date, are entitled to apply for this examination.

Your Memorialist respectfully represents that to continue the new rules in abeyance until after the Bar Association has had an opportunity to express itself with reference to the same, would open the way for an agreement by the Bar upon recommendations in matters of detail, which, if approved by your Honors, would tend to result, and doubtless would result, in the establishment of a permanent uniform system of admissions throughout the Commonwealth; whereas the holding of an

examination under the new rules recommended by the State Board will be apt to delay indefinitely the accomplishment of this earnestly striven for uniformity, as is more fully set forth *infra.*

Your Memorialist respectfully represents that the State Board of Law Examiners in submitting recommendations for the new rules of admission went beyond the consensus of opinion at the Bar, and that uniformity in matters of admission in the State cannot be achieved under the State Board's recommendations as they stand at present. This will perhaps be apparent from the fact that Courts in several of the judicial districts have adopted rules permitting the local Boards to accept the certificates of the State Board in lieu of the examinations required by the local rules, but that *no Court in any judicial district in the State has adopted a rule making the State Board's certificate the sole test of the educational qualifications of candidates,* which is necessary if uniformity is to be attained. Dauphin County is an example. It has been contended that the requirements for registration recommended by the State Board were substantially those of Dauphin County. Such is not the fact, except as to the subjects of examination. The Dauphin County rule authorizes registration, without examination, of a candidate graduated in arts or in science from a college in good standing. The new Dauphin County rule permitting registration on presentation of a certificate from the State Board, has not altered this regulation. Philadelphia County is a marked instance, and by far the most important, as about one-third of the annual applications for registration and admission are in that district. The Courts of this district recently adopted a rule authorizing the acceptance of the State Board's certificates in lieu of examinations, and the local examining Board met and decided to send such candidates as are subject to examination under the present practice to the State Board for examination, *but they will continue to register, as heretofore, on college diplomas and certificates of graduation from high schools approved by the Board.* Thus in the most important judicial district, at the very inception of the new system, is uniformity shown to be unattained under the new rules, for the reason that Philadelphia County declines to require graduates of colleges and high schools approved by the Board to submit to the hardship of an examination in rudimentary subjects, and such is bound to be the result in a majority of the judicial districts. There are other points in the system recommended by the State Board which have been criticized by both Bench and Bar. One learned and revered Judge has characterized the State Board's recommendations as "a rule to discourage admission to the Bar," and another fearless Judge has suggested that the State

Board's recommendations "need both surgical and medical treatment."

It is respectfully submitted the new system will be successful and uniformity will be attained if it accords with the consensus of opinion in the profession. Otherwise there will not be uniformity, the desideratum for the achievement of which the Bar Association has concentrated its energies. Your Memorialist respectfully represents that it is his belief that if the new rules of admission were continued in abeyance until the first Monday of January next, the sentiment of the profession throughout the State would in the interim be crystallized in recommendations upon matters of detail, which, if they met with your Honors' approval, would result in the inauguration of the new system, under auspices which would insure its permanency.

3. Your Memorialist deems it his imperative duty to the Court and to the profession to submit the fact of the request by an overwhelming majority of the members of the Committee on Legal Education of the Pennsylvania Bar Association, representing more than three-fourths of the judicial districts in the State, that the new rules be permitted *to remain* in abeyance until after the Bar Association convention, that the Court may have this request formally before it for whatever action thereon may be adjudged advisable. In doing so your Memorialist records his conviction that the Bar of the State of Pennsylvania considers itself under a high sense of obligation for the attention accorded the Bar Memorial by your Honors, and your Memorialist declares that he believes there has been no change of sentiment at the Bar from the earnest desire heretofore expressed for the establishment of a uniform system for registration and admission throughout the Commonwealth, and that he understands this almost unanimous request of the Committee on Legal Education to be in furtherance of the establishment of a permanent uniform system of admissions which will be received with practical unanimity by the profession in Pennsylvania.

All of which is respectfully submitted.

LUCIEN H. ALEXANDER,

of Bar Memorial Committee,
Pennsylvania Bar Association

7 May, 1903.

In the Superior Court. Minority Memorial from Special Committee of Pennsylvania Bar Association *in re* Admission to the Bar.

To the Honorable, the President Judge and Associate Judges of the Superior Court of Pennsylvania:

YOUR MEMORIALIST RESPECTFULLY REPRESENTS:

1. At the 1900 meeting of the Pennsylvania Bar Association, it was declared by unanimous vote as the sense of the Association that a State Board of Examiners should be created in Pennsylvania and uniform standards of examination established for registration and admission to the Bar. A special committee was appointed for the purpose of memorializing the Appellate Courts of Pennsylvania to appoint a State Board, before which all applicants for admission to the Bars of the Supreme and Superior Courts should present themselves for preliminary and final examination, and to formulate rules for the government of said Board. Your Memorialist is a member of the committee appointed for the purpose of presenting the Memorial on behalf of the Bar Association. The committee met shortly after their appointment and determined, in order to prevent a deadlock, as the Supreme and Superior Courts are never in session at the same time and place, first to memorialize the Supreme Court, and should the application there be successful, then to present the Memorial to the Superior Court. The Memorial was presented to the Supreme Court at the January Term, 1901. A year later on May 26, 1902, a State Board of Law Examiners was appointed, and on November 11, 1902, the Supreme Court adopted a new set of rules recommended

by the State Board of Law Examiners for the government of said Board and regulating admissions to the Bar of the Supreme Court, to take effect from the first Monday of January, 1903, but since that date these rules have been permitted to remain in abeyance and the old rules have been in force. A copy of the Memorial covering the argument on behalf of the Bar Association for a central system of admissions, as well as a pamphlet containing letters from the profession on the subject, which was also submitted to the Supreme Court, together with a copy of the new rules as promulgated by the Supreme Court, are herewith transmitted.

2. On May 2, 1903, the Bar Memorial Committee met, and upon motion of your Memorialist determined to present a Memorial to the Superior Court, in accordance with the directions of the Bar Association. Your Memorialist, however, is unable to sign or concur in the majority Memorial for reasons which will appear *infra*. He, however, respectfully represents that it is the sense of the Bar of the State that there should be uniform standards for registration and admission throughout Pennsylvania, and he respectfully memorializes your Honorable Court on behalf of the Pennsylvania Bar Association to adopt *at such time as your Honors deem will best conserve the object the Association has in view,* such rules and regulations as will bring the admission standard of the Superior Court into harmony with that of the Supreme Court.

3. Among the reasons operating to prevent your Memorialist from signing or concurring in the majority Memorial is the fact that he believes good faith* to the Court demands that a Memorial by a Committee of the Bar Association, the presentation of which has been delayed for nearly three years, requesting "early action" "in substantial harmony with the action already taken by the Supreme Court," should disclose the fact that within less than thirty days members of the Committee on Legal Education of the Bar Associa-

*This remark should not be construed as a reflection upon the majority members of the Bar Memorial Committee. Each member of the Committee undoubtedly acted in accordance with what he believed was good faith to the Court and several, it seems, believed that the Committee had resolved to submit the facts to the Superior Court in a resolution to be sent separately from the Memorial. L. H. A. 6/23/1903.

tion, a committee with a representative thereon from each judicial district in the State, by the overwhelming vote of 43 to 6, have requested the President of the Pennsylvania Bar Association to appoint a committee, as stated by him, "to pray the Supreme Court that the new rules of admission may remain in abeyance until after the Association has held its next convention." The facts as to what has been done as the result of this request of members of the Committee on Legal Education, representing more than three-fourths of the judicial districts in the State, are fully set forth in the minority Memorial recently presented by your Memorialist to the Supreme Court, whereof a copy is herewith transmitted.

Your Memorialist respectfully represents that entirely apart from the action which may or may not be taken by the Supreme Court upon the request of the forty-three members of the Committee on Legal Education, it is possible and perhaps probable that this movement will result in the suggestion of modifications in the new rules of admission adopted on the recommendation of the State Board of Law Examiners, and in consequence your Memorialist respectfully submits that it may be expedient to defer promulgating new rules of admission to the Bar of the Superior Court until after the Pennsylvania Bar Association has held its convention in June.

4. Your Memorialist has also been unable to concur in the majority Memorial for the reason that it tends to give the impression that (*a*) the recommendations to the Supreme Court by the State Board of Law Examiners for registration rules are in substantial harmony with the 1897 recommendations of the Pennsylvania Bar Association, and that (*b*) they are similar to the rules in force in Dauphin County and in Philadelphia County. Such is not the case, except as to the subjects of examination. The rules of Philadelphia County and of Dauphin County permit registration without preliminary examination upon presentation of approved aca-

demic diplomas. The new rules of the Supreme Court do not, and in this particular are contrary to the recommendation of the Pennsylvania Bar Association, which is printed at p. 59 of the report for 1897, commencing with paragraph (b). The majority Memorial is also apt to create the impression that the Courts of Philadelphia County have recently adopted a rule which will result in uniformity between the Philadelphia regulations and those of the Supreme Court. Such is not the case, as the members of the Philadelphia local Board have acted on the new rule and will continue to register, as heretofore, on college diplomas and certificates of graduation from high schools approved by the Board. These facts are more fully set forth in the minority Memorial to the Supreme Court.

5. Your Memorialist in conclusion declares on behalf of the Pennsylvania Bar Association, his unqualified support of the adoption of the Supreme Court system by the Superior Court, should the Supreme Court, upon consideration of recommendations from the Bar Association, determine not to alter the rules to govern the new system, for the reason that uniformity in matters of admission is the desideratum for the achievement of which the Bar Association is concentrating its efforts.

All of which is respectfully submitted.

LUCIEN H. ALEXANDER,
of Bar Memorial Committee,
Pennsylvania Bar Association.

8 May, 1903.

5

Identical Communication to members of the Committee on Legal Education, Pennsylvania Bar Association.

[NOTE.—In response to this communication 43 of the 56 members of the committee voted in favor of an application to the Supreme Court for a continuation of the suspension of the new rules of admission, until after the Bar Association Convention; 6 only voted in the negative. The President of the Bar Association promptly referred the request of the 43 members of the Committee on Legal Education to the Bar Memorial Committee. This committee did not meet until May 2d and the majority, including the members of the State Board of Law Examiners present, then decided that it was inexpedient to present the suggested application to the Court. Mr. Alexander will submit a minority report to the Association from the Bar Memorial Committee at the approaching convention.]

Philadelphia, 10 April, 1903.

DEAR SIR:

Exhibits A, B and C to this communication, and particularly described in the index on the opposite page, are self explanatory.

There is also enclosed for facility of reference a copy of the new rules of admission as promulgated by the Supreme Court on November 11, 1902, and published in the *Legal Intelligencer* of November 14, 1902, duly certified by the Prothonotary of the Supreme Court, E. D. The State Board of Law Examiners republished these rules as of March 15th, 1903, with modifications concerning the place and time of advertising by applicants, and with the addition of a new rule numbered "X" relating to the cases of attorneys from other jurisdictions, a copy of which is attached to the enclosed reprint of the new rules. Neither the changes as to advertising or the rule numbered "X" have as yet been promulgated by the Supreme Court.

The dissatisfaction with certain features of the new rules, as expressed by members of the profession interested in the subject, is so great that your attention, as a member of the Committee on Legal Education, is now called to the memo-

randum of defects (Exhibit B., reprinted p. 11, *infra*), that some action may, if deemed wise, be taken which will hold the new system in abeyance until the State Bar Association has considered it. One of the most important of the few Common Pleas Courts to adopt the Supreme Court system, has recently rescinded its action and reinstated its old rules of admission, and it is said will not adopt rules permitting admissions on the State Board's certificate so long as the duties of the examiners are performed by a proxy committee and not by the direct appointees of the Supreme Court, as in other states having the State Board system. It is understood that the Superior Court is not in accord with certain provisions of the new rules, and will take no action thereon until after the next Bar Association Convention, that opportunity may first be afforded the profession to speak. Furthermore it has been intimated that two members of the State Board have admitted themselves out of sympathy with salient provisions.

Some of the specifications in the memorandum of defects are not of vital importance, yet deserve consideration if any revision of the rules takes place. There are two points, however, which are deemed to be of the essence of the situation and affect the system to the core, to wit: (1) the dual board arrangement, that is, the plan for a paid board of "assistant examiners" appointed by the State Board to do the actual work (see specification XXI, p. 17, *infra*), the objection not being to the present appointees but to the system itself; and (2) the rule with reference to preliminary examinations (see specifications XII and XIV, p. 13 and p. 14 *infra*). Both of these defects are so serious that it is believed by the undersigned the enforcement of either will prevent a general acceptance of the Supreme Court system by the Courts of the various Judicial Districts throughout the Commonwealth, and without which the new system can hardly be other than a failure, resulting in two Bars for Pennsylvania, one for the Supreme Court, the other for the Common Pleas Courts.

The Supreme Court, although the order promulgating the new rules stated they were to take effect from the first Monday of January, 1903, practically suspended the new rules

on that date without any formal order, and has to this time been admitting candidates for its Bar under the provisions of the old rules, and since that date there have been about 400 admissions under the old rules. It may be that the Court has thus far permitted the new rules to remain in abeyance in order to afford an opportunity to members of the profession generally to express themselves, should they not be in accord with the system which the Supreme Court adopted *in the belief that it was what was desired by the Bar of the State.* Such an opportunity would naturally arise at the meeting of the State Bar Association commencing June 29th next. The State Board, however, which in fact drafted the new rules, has just announced preliminary and final examinations under the new system to commence June 23, 1903, so that when the Bar Association meets the new system will have been in full operation, yet for so short a time that the result thereof will be unknown, and it is probable that by reason of this there would then be hesitation on the part of members of the Bar to criticize defects which would unhesitatingly be pointed out if the new system were not actually in force. When a new plan is practically in operation it is the trend of the average man to let it stand; *quieta non movere.*

This communication is sent you in the hope that something may be done to get the system of a State Board of Law Examiners, which is so urgently desired by the Bar of the State at large, *started right.* If it once becomes established under the present defective rules it may be most difficult to secure modifications.

As the best, and probably only means of bringing the matter to a focus, you are respectfully requested as a member of the Committee on Legal Education of the Bar Association (a committee representative of the whole State, having a member thereon from each Judicial District), to sign the enclosed communication* to the Hon. C. LaRue Munson, President of the Pennsylvania Bar Association, stating whether or not you are of opinion the President of the Association should ask the Supreme Court to grant a committee appointed by him (small enough in size to be a practical working one, say

* Copy of the form for reply will be found on third page of cover facing p. 32 of this pamphlet.

of seven) a conference or hearing with reference to these new rules, to the end that if the Court is thereby led to believe there are substantial objections to the new rules, they may be suspended until after the Bar Association shall have had an opportunity to express itself at its convention during the last week in June. If the majority of your committee favor such an application, President Munson, as the official head of the Association, will deem it his duty to act, and it is not too much to hope that it would result in the Supreme Court suspending operations under the new rules until the Bar Association has had an opportunity to consider the subject at its approaching meeting, for the reason that it is undoubtedly the desire of the Court to have the new system of admissions accord with the enlightened views of the profession.

A copy of this communication was sent to the State Board of Law Examiners on April 1, 1903, with notice that it would be mailed to members of the Committee on Legal Education on April 10, 1903. As the advertising of candidates for admission must commence during the first week in May, by reason of the date fixed by the State Board for the first examinations, *it is important that President Munson should hear from you as speedily as possible*, that if an application is to be made to the Supreme Court, it may be in time to secure action before the advertisements have been transmitted to the various publishers throughout the State.

Yours truly,

LUCIEN H. ALEXANDER,

Individually, not as Secretary of the Committee presenting the Bar Memorial to the Supreme Court.

OPINION BY

HON. ALEX. SIMPSON, JR.

As the Pennsylvania Bar Association initiated the movement for the appointment of the State Board of Law Examiners, blame may be attributed to the Association should the new system result in failure, and as the present rules vary considerably from those acted upon by the Association through its Committee on Bar Memorial, I am of opinion that it is important for the members of the Committee on Legal Education to request the President of the Bar Association to take such steps as in his judgment will result in holding the new rules of admission in abeyance until the Association shall have had an opportunity to express itself with reference to the same at its 1903 meeting.

ALEX. SIMPSON, JR.
Of Committee on Bar Memorial to the Supreme Court.

April 10, 1903.

EXHIBIT A.

Identical communication to the Honorable, the Justices of the Supreme Court.

26 November, 1902.

DEAR SIR:

It is with some hesitancy that I address your Honor upon the subject of the new rules of admission. However, I have reached the conclusion that it is proper to do so, as the subject is one relating to the common interests of the profession and in no sense analogous to a litigated matter before the Court for determination.

In the first place, I beg respectfully to state that in my judgment every member of the Bar of Pennsylvania is under a debt of gratitude to the Justices of the Supreme Court for the considerate attention accorded the Bar Memorial and for the appointment of a State Board of Bar Examiners, and that I realize that in promulgating the new rules drafted by the State Board, the Court acted in the belief that the rules represented the wishes of the Bar. As I am in a position to hear a great deal on that subject and know that they do not in their present form voice the consensus of opinion at the Bar, and contain radical departures from the plan of the committee representing the Bar Association, and as I firmly believe they will fail to accomplish the result long striven for by the Bar Association, but on the contrary will tend to delay indefinitely its realization, I consider it would be a dereliction of duty both to the Court and to the profession to remain silent. Therefore I address the members of the Court individually in the hope that before the new rules are put into practical operation, and thereby grafted into the judicial system of Pennsylvania, the Court may be disposed to alter them. As indicative of my personal opinions—and in this connection I in no way speak for the Bar Association, but merely as an individual member of the Bar, who has in recent years devoted some considerable time to a study of the problem—I enclose some comments with reference to the new rules, recently transmitted to a member of the State Board of Law Examiners.* I also respectfully submit a printed memorandum† of specific points which seem to me to be defective in the new rules, and while I do not wish to intrude my views, I beg to say that should your Honor or any member of the Court desire it, I shall gladly prepare a more complete statement.

Were the rules the actual work of the Court I would long hesitate to voice a criticism, but as they were drafted by members of the State Board

*p. 8, *infra*.
†p. 11, *infra*.

who are but members of the Bar, the case is altered. As the latter have had no practical experience in the necessities of an examination system dealing with large numbers of candidates, and their draft bears on its face evidence of an imperfect knowledge, or at least oversight of some of the most important requisites of Bar admission regulations, that which in any event would be a distasteful task, becomes a plain though unpleasant duty.

It is pertinent here to remark that when the Court in May, 1901, requested the Bar Committee to submit a draft of the form into which the rules would naturally crystallize if the Memorial were sustained, a sub-committee composed of Messrs. Snodgrass and Pepper and the writer was appointed to prepare such a draft, and the result of their labors was carefully gone over and in some particulars amended by other members of the committee, including Mr. Dickson. The draft was finally pronounced by Mr. Hensel "polished and perfect" and was submitted to the Court in June, 1901, in type-written form. I urged that it be printed and a copy handed to each member of the Court, but the Chairman of the committee deemed this unnecessary. A year later, however, early in May, 1902, I took the responsibility of having the draft and explanatory notes printed in pamphlet form, an edition limited to twenty-five copies, each numbered, and sent the same to the Chairman for the use of the Court. No copies of the pamphlet were retained by me other than in proof, one of which I enclose for your Honor's information.* This draft was prepared only after a careful study of the conditions prevailing in the various sections of Pennsylvania and of the regulations governing admissions to the Bar in all the different states of the Union. The Bar Committee's draft endeavored so far as possible to preserve the existing methods and standards and to prevent unnecessary hardships to the candidates. While I have no pride of opinion and care nothing for the committee's draft, except as I believe it has substantial merits, I am of opinion that it is not open to any of the criticisms which have been passed upon the State Board's draft, and furthermore I believe it represents the consensus of opinion at the Bar on all salient points, and in addition it was not drafted to fit a Board willing to retain the honors, but desirous of escaping the *essential duties* of the office and actually asking to have them performed by hired assistants. On the contrary the Bar Committee's draft was prepared to meet the conditions existing in Pennsylvania and on lines known to work satisfactorily and smoothly in other state jurisdictions.

As the originator of this movement for a State Board of Law Examiners, I may be permitted to say that uniformity throughout the state in matters of admission was the main object desired to be attained, questions of high standards were and ought at this stage to be subsidiary, and may well be left to time and natural development. Actual uniformity will not result unless the Supreme Court's examinations are generally accepted by the Judges in the various Judicial Districts, and it may be assumed without question that they will not be so accepted unless the new system is one which will inspire confidence and impose no unnecessary hardships. I have no hesitancy in asserting that the system proposed by the State Board will not inspire confidence and that it will impose unnecessary hardships upon the candidates. If

*p. 21, *infra*.

put into operation in its present form two Bars will grow up in Pennsylvania, an appellate Courts' Bar and a Common Pleas' Bar, there will be conflict and dissension over the two systems and it will end, sooner or later, with the application of the legislative knife. To legislative regulation of admissions I am opposed, indeed I succeeded in 1900 in defeating the plan to go to the Legislature for the same, but upon the constitutionality of such regulation I am prepared to stake my professional reputation.

It is very respectfully suggested that in view of the dissent of one of the Justices of the Court* and the serious defects existing in the new rules, such a condition is presented as to warrant the Court in reconsidering the report of the State Board before the new admission rules become operative. With submission to your Honors the new system can yet be started right, and only in that way will it have a chance for its life.

Any seeming over-zealousness in this communication I trust your Honor will credit to my interest in the cause and believe me to remain,

Very respectfully,

LUCIEN H. ALEXANDER.

(Enclosure of above letter:)

COMMENTS UPON NEW ADMISSION RULES IN LETTER, 18 NOVEMBER, 1902, TO MEMBER OF STATE BOARD,† WHICH DRAFTED THE RULES.

"The new rules of admission are so carelessly drawn in some particulars and so faulty in others that they require careful revision in order to accomplish desired results. They are unnecessarily revolutionary in tendency and unwisely disturb existing standards and methods of examination, and I believe it to be merely a question of time until their radical amendment will be found necessary. I do not hesitate to pass these strictures upon the rules as I learn they are not the actual work of the Supreme Court, but were approved substantially as reported by the State Board, and because I feel it keenly that by many I am considered responsible for the rules in their present form. I am overrun with requests to construe them, which the Court alone can do, and which ought to be wholly unnecessary and would have been, had the rules been drawn by some one familiar with the necessities of the situation. Had the State Board taken into consultation Pepper, or some one else in touch with the practical end of Bar examinations, the present unfortunate situation would not exist.

"The Supreme Court has endeavored in every way possible to comply with the request of the Bar Association, and has undoubtedly promulgated these rules drafted by the State Board in the belief that they represent the wishes of the Bar, but I know that the rules as reported by the State Board do not, and I heartily endorse Mr. Justice Mestrezat's dissent. Of course I have refrained from any public criticisms upon the rules. It is, however, my intention unhesitatingly to point out in committee their defects, and by every proper

* Mr. Justice Mestrezat.

† Mr. Dickson.

means strive to secure their early alteration. I know of no one who has thoroughly investigated the subject and given it systematic study, who believes the rules in their present form will accomplish the objects the Bar Association has in view. A member of the Bar who knows more about the subject of legal education than anyone in the state—and in other matters I would call him the leader of the junior Bar—has not hesitated to say:

"'An attempt to work out a satisfactory result with a subordinate or an-
"'cillary Board will almost certainly end in failure. The proposition to com-
"'pel the holders of college degrees (academic) to submit to a preliminary
"'examination seems to me to be monstrous.'

There are numerous other faults, both of omission as well as of commission.

"Apart from the defects in the new rules, it is, however, a great gain to the profession that the principle has been established of a State Board of Bar Examiners appointed by and subject to the control of our highest appellate Court, and in consequence the work that has been done has not been in vain."

SUMMARY OF SPECIFICATIONS.

EXHIBIT B.

10 Copies printed.
Copy No.

MEMORANDUM *in re* DEFECTS IN THE NEW RULES OF ADMISSION RECOMMENDED BY THE STATE BOARD OF LAW EXAMINERS.

[*For Index-Summary see p. 10*]

26 NOVEMBER, 1902.

I.

The new rules are nine in number. The old rules of the Supreme Court with reference to admission are numbered rules 1, 2, 3 and 4. Rules of the Supreme Court 5 to 9, inclusive, relate to other matters than admission to the Bar. Rules 7, 8 and 9 refer entirely to criminal cases. In consequence when all the rules of the Supreme Court are next published, the new admission rules numbered 1 to 9 will come first and renumbering of all rules, from rule 5 to rule 94, will be necessary and much confusion will result. The new rules of admission should have been numbered so as not to interfere with the numbering of those subsequent to those amended. The Bar Committee's draft is not subject to this objection, as will appear by its draft* and note 1 thereto.

II.

The new rules do not provide that a candidate for admission shall be a citizen of the United States or that he shall have attained his majority. Under the old rules this was not so important, as the various county Courts had regulations concerning these essential matters.

III.

In rule I there is no provision for the admission of a man as a *counsellor* as well as an attorney. The certificates of admission to the Supreme Court Bar have for many years set forth that the new member of the Bar was admitted as "an attorney *and counsellor.*" In Pennsylvania of course this has no especial significance, but elsewhere, notably in New Jersey, the title "counsellor" adds weight to the standing of a lawyer from another state.

IV.

Despite the fact that by virtue of the provision of rule I that no person shall be admitted except upon recommendation of the State Board, etc.,

*p. 21, *infra*.

there are no other regulations in the new rules concerning the admission of attorneys from other jurisdictions. It is possible that the State Board in reporting its draft assumed that old rule IV would remain in force. However, if this be so the new rules are not complete and confusion will be apt to result. Furthermore old rule No. IV provides that an attorney from another state shall first be admitted to a Court of Common Pleas of this state. As it was the intent of the Bar Memorial to secure original admissions in the Supreme Court, in the hope that original admissions by County Courts would eventually be superseded, the Bar Committee in its draft suggested by its rule III regulations for the original admission of attorneys from other states. The reasons for the suggestions were elaborated in note No. 12 to the draft.*

V.

Rule I provides for admission only on "recommendation" of the State Board. If the State Board, in the exercise of its discretion, refused *to recommend* an admission they could not be mandamused to do so, and there would be no regular method of raising the question in case the Board should err. The substitution of the word "report" for "recommendation" would obviate this difficulty.

VI.

Rules II and III are inserted for the purpose of preventing the new rules from having a retroactive effect upon those not yet admitted to the Supreme Court Bar, but who are either now members of local Bars, or are students within the provisions of the rules of some judicial district. After a few years there will be no cases to which they are applicable, and in consequence they will be dead wood in the rules of admission. The Bar Committee suggested that such cases could be covered by general enabling orders, forms for which were outlined on pp. 5 and 6 of its draft.†

VII.

The word "now" in the second line of rule II will result in some confusion. Query: Does it refer to 11 November, 1902, the date the new rules were promulgated, or to the first Monday of January, 1903, when they take effect?

VIII.

In rule II the clause "after he shall have practised therein for at least two years" is unnecessary, for the applicants otherwise within the rule are to be admitted under the provisions of the old rules, and old rule I requires two years' practice.

IX.

In rule II the exception commencing "but this rule shall not apply to graduates of law schools" is causing much criticism at the Bar, for it has clearly, by the usual rules of interpretation, a retroactive effect. This qualification of the general exemption provision in the first part of rule II will make it impossible for any member of a county Bar who was admitted to a Common

* p. 30, *infra*.

†pp. 25 and 26, *infra*.

Pleas Court on a law school diploma within less than two years prior to the date intended to be fixed by the word "now," to be admitted, except by examination, to the Supreme Court Bar even if otherwise eligible for admission under the old rules. This they could have avoided by traveling to Pittsburg to be admitted at the October Term, 1902. If the State Board intended that the exception should have the meaning which would be clear and free from ambiguity, if the word "until" had been used in place of the word "unless," the rule would still be retroactive, as it would require them to practise two years in the lower Court, which is unnecessary under the old rules of the Supreme Court in the case of law school graduates, but furthermore it would make the entire exception to the exemption of rule II redundant, as such cases would then be fully covered by the first portion of rule II as reported by the State Board. Any way it is taken it is ambiguous and retroactive, discriminating against the members of local Bars, who have within two years been admitted on law school diplomas, in that it makes them subject to new regulations of the Supreme Court for admission. The Bar Memorial expressly petitioned against the incorporation of any retroactive provisions, and the draft for the rules of the Bar Committee avoided such provisions, and it is assumed the Supreme Court desires to avoid them.

X.

In the second line of rule III the words "this date" are subject to the same ambiguity as the word "now" of rule II, referred to under specification VII.

XI.

By the clause "the certificate of the Board of Examiners shall be conclusive evidence," etc., etc., in rule III, the point is not clear what Board of Examiners is meant, whether the local Board or the State Board. As both the Bar Memorial and the Bar Committee's draft for the rules suggested that the certificate of the local Judge should be conclusive evidence in this matter, it is presumed the State Board in drafting this provision intended it to refer to the local Board. If the local Board is intended, it is unwise, as it is to be hoped the local Boards will eventually be abolished; if the State Board is meant it is also unwise, as they are not in a position conclusively to determine local requirements. Furthermore the certificate of an examining Board should not be "conclusive evidence" of anything, as such a provision would do away with the Court's power to review. The Bar Memorial and the Bar Committee's draft (2d enabling order, p. 25) suggested that the better plan would be to have the certificate of the local Judge conclusive in such cases, and of course how he informs himself and satisfies his judgment is not important as to this particular provision, which in any event will become inoperative in the course of a few years.

XII.

Rule IV deals with registrations and preliminary examinations. The Bar Committee's recommendations on this subject are in rule II of its draft,*

*p. 22, *infra*.

and the subject of standards is fully discussed in note 6* to said draft. Rule IV of the State Board's report, aside from being stated in negative form, which should be avoided wherever possible, enumerates the subjects of examination. This permits of no flexibility and unnecessarily creates antagonisms from those not thoroughly posted upon *curricula.* Furthermore in the subjects as reported the Latin is out of proportion to the mathematics. The State Board's recommendation provided for an examination, *inter alia,* in the Ænid, and the rules were so promulgated by the Supreme Court, —it is assumed of course that the Æneid was intended. The Bar Committee was of opinion that the highest standard which should at the present time be insisted upon was the acquirement of a general education "equivalent to a substantial knowledge of the subjects taught in such high schools as may be approved by the Board." In Philadelphia County the writer urged the adoption of the Philadelphia High School course as the standard for the first judicial district, and that was finally recommended unanimously by the county Board and has been incorporated in the Philadelphia County rules of admission.

XIII.

Rule IV of the State Board's draft relates to the registration and preliminary examination of *students* only. Attorneys coming from jurisdictions outside the state, who have not studied or practised sufficiently long to entitle them to admission on grounds of comity, might well be required to pass the preliminary examination and register in accordance with the practice satisfactorily existing for some time in Allegheny County. Such a recommendation was made by the Bar Committee in the second paragraph of rule III of its draft.†

XIV.

Probably the most serious objection to the State Board's recommendations upon the subject of registration is the provision of rule IV requiring every applicant *actually to pass* the preliminary examination upon the subjects named. This is contrary to the practice of many years' standing in Philadelphia County, Allegheny County, Luzerne County, Cumberland County and Lackawanna County, and the most active man on the examining Boards of each of these counties has recently expressed himself as opposed to the adoption of this provision. So also has the active man in the examining Boards of Lycoming and Schuylkill Counties, which now examine all candidates. In these seven counties during the year 1901 there were more than 65 per cent. of the total applications in Pennsylvania for registration, and if opinions were obtained from the remaining sixty counties there is no doubt whatever but that there would be an overwhelming protest against the incorporation of such a provision in the new admission rules. The man best posted in Pennsylvania upon the subject of legal education has not hesitated to say with reference to this plan of the State Board: "The

* p. 28, *infra.*
† p. 23, *infra.*

"proposition to compel the holders of college degrees [academic] to submit to "a preliminary examination seems to me to be monstrous." The writer agrees with this view. The plan is contrary to the specific recommendation of the Pennsylvania Bar Association adopted as far back as 1897. The Bar Association's recommendation on this subject to the Common Pleas Courts for incorporation in admission rules was as follows: "If a student presents a "diploma in arts or science of a college in good educational standing, or a "certificate of admission to the freshman class of such a college, or a certifi- "cate of graduation from a high school or other preparatory school the certifi- "cate of which admits to the freshman class of such a college, he shall be "entitled to registration without preliminary examination." The committee reporting the recommendation had canvassed the different counties of the state for the consensus of opinion of the various Boards of Examiners, and reported as follows: "There seems to be a general approval of the acceptance "of a college degree or a school certificate, as provided for in this rule. Jeffer- "son County would dispense with the preliminary examination only upon pre- "sentation of a college diploma. The same is true of Montgomery, Indiana "and Somerset. Luzerne accepts the certificate of admission to the freshman "class of a college or of graduation from a high school, other preparatory "school, seminary or state normal school." The committee so reporting was composed of John W. Reed, Jefferson; Alfred Hayes, Union; F. G. Hobson, Montgomery; J. M. Force, Erie; Frederick Bertolette, Carbon; E. J. McNeelis, Cambria; and D. Watson Rowe, Franklin, Chairman.

This new rule, if not amended, will be sufficient of itself to shake confidence in the new system, its practical application will lead to the impression in the public mind that there is an attempt on foot to keep people out of the profession of the law, and will undoubtedly defeat the objects desired to be attained by the Bar Association in the establishment of a State Board. With such a provision in the rules of the Supreme Court the majority of the county Courts will assuredly adhere to the old system of local Boards and regulations.

It is not intended to suggest that graduates of approved colleges and high schools cannot pass a reasonable preliminary examination, but the fact is patent to anyone practically familiar with conditions existing that the college graduate will be unable successfully to pass an examination in the elementary subjects without a review which may take him several months. The writer heard Woodrow Wilson make the statement to the American Bar Association in 1894 that the members of the faculty of Princeton University could not pass the entrance examinations required of candidates for the freshman class for the simple reason that they had gotten away from the subjects. Of course if graduating from an approved high school in Pennsylvania or from an approved college does not imply of itself that a man has acquired sufficient education to study law, the requirement to examine is reasonable, otherwise it imposes an unnecessary hardship upon the candidates and puts no premium upon the work of the ambitious student, who forging ahead graduates from the high school and works his way through college.

XV.

Rule V established an iron clad rule with reference to the type of law schools in which registered students may study law. This subject was discussed in note 7* of the Bar Committee's draft, and the writer believes the Bar Committee's recommendation of law schools "approved by the Board of Examiners" will be productive of better results than that recommended by the State Board, yet the State Board's recommendation in this particular is not unreasonable and accords with the practice in some other jurisdictions.

XVI.

The Bar Committee's draft, in the third paragraph of its suggested rule II,† recommended a provision for *nunc pro tunc* registration upon recommendation of the State Board and reasons for the same were set forth in note 10. The new rules do not provide for this, and the result will be that if *nunc pro tunc* registrations are not provided for under reasonable regulations, hardships will often result to candidates, and if on the other hand applications must be made to the Court therefor, the Court will be overrun with motions and petitions for the same. It is respectfully submitted that this is a matter which could well be left to the good faith and discretion of the State Board, under such a rule as recommended by the Bar Committee, providing that the State Board shall have no discretion except under the circumstances set forth.

XVII.

Sections 3 and 4 of rule V provide for certificates to prove moral character. The Secretary of the State Board of Law Examiners of New York, who is the best posted man in the United States on the subject, wrote the writer some months ago: "Allow no proofs by certificate. Make every "person, applicant, attorney and law school authority swear to the facts. "Certificates have no moral weight, and our experience has been that many "attorneys will sign a certificate where they will not dare to make an affi- "davit." I endorse this view heartily after three years' experience as the Secretary of the Philadelphia Board of Examiners. In sections 1, 2 and 3 of rule V the phraseology is not good, and "shall" would be better than "must." In section 4 the principal verb is left to implication.

XVIII.

Rule VI provides that every applicant "must sustain a satisfactory examination in" the subjects named. This is a most unusual requirement. Michigan has one somewhat similar and the examination takes a week. Certain of the subjects are major ones, others are minor. The State Board ought to have a discretion and be permitted to use its judgment as to whether or not to examine in every subject. Candidates for admission of course "should be prepared for examination" in all the subjects, and they will not of course know in advance which of the minor subjects the Board will examine upon, but they ought not to be required to sustain a satisfactory examination in every subject. The State Boards doing the best work and

*p. 28, *infra*.

†p. 22, *infra*.

dealing with the largest number of applicants no longer give topical examinations. One hundred to two hundred questions are propounded and they are presumed to cover the field, and the candidate is passed or rejected on the results of the examination as a whole.

XIX.

With reference to the provision of rule VI that the candidate shall sustain a satisfactory examination in "Pennsylvania statutes and decisions," it is suggested that the provision is unreasonable and will appal the average student by reason of uncertainty as to what is meant thereby. The Bar Committee suggested in rule I of its draft* that the candidates should be prepared for examination in "the developments in Pennsylvania of the principles of the law, as exemplified by the decisions of this Court (i. e. Supreme Court) and statutory enactments."

XX.

Rule VII fixes five places in the state for the holding of the examinations. These five places are of course in but five counties. There are therefore sixty-two counties in Pennsylvania in which examinations will not be held. Many of them have a considerable number of candidates each year, and it is submitted that it will be an unnecessary hardship to compel candidates to go to the centers of population for examination and may result in the Judges of local Courts deciding to continue their local examinations. The Bar Memorial suggested a method (sec. 5 of p. 6 of Memorial, reported 1901 Pa. Bar Association's report, p. 119) by which an examination could be held simultaneously at every county seat upon application of five or more candidates. The rule could provide that such an examination could be held if there were only one application. The administration of such a system is purely a matter of detail. The Board of Regents of New York State conduct examinations in all subjects in every county of New York State and in various parts of the world simultaneously. The leading colleges have for years conducted simultaneous entrance examinations in the principal cities of the United States. The application of this plan to the State Board's work was first suggested by Hon. Samuel Gustine Thompson of the Bar Committee, who has had two or three years' experience on the Philadelphia Examining Board. It was acquiesced in by the others as a reasonable and practical plan. It is in line also with the inquiries of Mr. Justice Mitchell at the conference accorded the Bar Committee in chambers on 9 May, 1901. To require students from all over the state to go to particular points for examination will impose considerable expense upon them for traveling expenses and for board during the three or more days or week of the examinations, and will also have a tendency to unnerve them. A strange city and a strange bed are not conducive to good results in examinations.

XXI.

Rule VIII, if ever put into practical operation, with its scheme of a State Board and a "Board of Assistant Examiners," as the senior member of the

*p. 21, *infra*.

State Board terms it, in his interview in the Philadelphia Ledger of 14 November, 1902, will shake the confidence of the profession in the system. The man who is best posted in Pennsylvania on the subject of legal education has not hesitated to say, "An attempt to work out a satisfactory result with a "subordinate or ancillary Board will almost certainly end in failure." Another writes from Cumberland County: "The latter plan (an adjunct Board) "would complicate matters and might breed confusion." A third, a member of the examining Board of Lycoming County, says: "A State Board should "be composed of men who actually do the work of conducting the examinations "and marking the papers." The most active member of the Bar of Luzerne County in matters of admission writes: "I do not believe in a mere figurehead "Board that would by the general reputation of its members at once give the "impression that these men cannot be expected personally to attend to the "business theoretically imposed upon them. If a State Board of anywhere from "seven to fifteen members were appointed by the Supreme Court from among "members of those Bars at which applications are most numerous, with "some care that the personnel of membership in each county would bring "to the Board local respect and assurance of work faithfully done by those "upon whom the duty lies, I believe the moral effect would be much better "than if there were a nominal Board known to do no work, with subordi-"nates who would be practically clerks only. I do not want the false im-"pression that the Board now appointed by the Supreme Court is not, in "my opinion, the very best that could have been appointed for the purpose "of getting the work started and of framing preliminary rules as well as "planning the course of study, but when it comes down to the actual conduct-"ing of examinations I doubt very much whether any of the gentlemen "named would consider that they owe the profession the sacrifice that "would be involved in doing the work of examiners." And the man with more experience than any other in the United States refers to the plan as the "cumbersome and curious dual Board evolved by the Pennsylvania Committee," and he says that there are "many, good, reasonable, and practical objections which obtain against the usefulness and practicability" of the plan. In another communication he speaks of the importance of contact between the candidates and the Board, and of its absence says: "It will cause the "Board and the system a loss of prestige, in having it understood that the "examinations are of such a perfunctory character that they are purely "clerical functions, which anybody can perform, and it will rob the Board "of its principal merit—its personal contact (more or less) with the student." Against the dual board plan recommended by the State Board I desire earnestly to add my protest, and to suggest that it places the members of the State Board in the position, in relation to the system, which should be occupied only by the Justices of the Supreme Court. I believe it to be the worst feature of the recommendations of the State Board, and if allowed to stand, destined eventually to defeat practically all that was striven for in the presentation of the Bar Memorial.

The Bar Memorial prayed the appointment of a State Board *to examine.* The Court by its order of May 26th, 1902, "established a Board of Law Exam-

iners to whom all applications for admission to the Bar of this Court shall be referred *for examination,"* etc. The State Board, by their report, ask to be excused from the work of examining, and have assistants paid to do it, and they attempt to gloss over the pith of the suggestion by the provision that the members of the Board should serve without compensation—pecuniary compensation—totally ignoring the fact that the dollars and cents to become available cannot adequately pay earnest, able and zealous members of the Bar for the labors performed and the antagonisms created, but that the portion of the compensation which is of genuine value to them is the honor of holding the office and the feeling that the debt which every man is presumed to owe his profession is being discharged, a consideration that has caused many members of the Bar in the larger jurisdictions to sacrifice both practice and pleasure and to devote days and weeks and months through a series of years to examining hundreds of candidates without any pecuniary compensation whatever, and no reward other than the one named. These are facts, not theories. In every other state of the Union where they have examining Boards the members are willing and glad to perform the *essential duties* of the office. In New York State there is a Board of three, and I believe they examine upwards of 1500 candidates per year. In New Jersey the State Board has recently been reduced from six to three. In Maryland there is a Board of three, in Illinois, Massachusetts, Michigan, Boards of five, and so on through the list, and the members of the Boards all do the work, and I presume would as soon think of suggesting to the Courts that they have assistants to write their decisions for them, as to ask to have clerks appointed and paid to perform the *essential duty* of marking the examination papers. The Pennsylvania State Board's suggestion that they will be personally responsible for the proper marking of the papers, etc., is impossible of performance, unless they themselves read and mark the papers, and if they do that there is no necessity for employing and paying someone else to do it. Any such system as this will assuredly end in discord, complications and failure.

XXII.

Rule VII provides for the appointment of a Secretary and a Treasurer. The Board have the power to appoint from outside the Board, and it is evidently their intention to exercise it, and even the approval of the Court is not necessary. For practical reasons of administration the Secretary and Treasurer should be the same individual. It is essential to the satisfactory working of the system that he should be a member of the Board. He is by far the most important feature in the examination system. He comes in direct contact with the student body and the members of the profession interested in them. He personifies the entire system. He must be a man of discretion and he must have the power to exercise a wise discretion and speak with authority when answering the thousand and one queries which will be propounded to him from all sections of the state,—no mere clerk can possibly discharge the duties satisfactorily to the profession. The views of the Secretary and Treasurer of the New York State Board on this

subject are set forth verbatim in note 13* to the Bar Committee's draft for the admission rules and are of much practical value.

XXIII.

Rule VIII near its end, where the subject of fees is dealt with, fails to set out the maximum sum which can be paid from the fees to the examiners as salaries. There is no provision for accounting to the Court for the moneys received, for the deposit of the funds, for the giving of receipts, and the expenses are not defined, etc. These are matters of great importance and are covered by suggested rule IV of the Bar Committee's draft.†

XXIV.

Rule IX is unimportant and hardly necessary. The State Board can be depended upon to furnish necessary information without demanding compensation therefor. The Board should, however, be empowered officially to *recommend* a course of study to students, with names of text-books, without the advantages of a curriculum carefully prepared by preceptor or law school faculty.

XXV.

There are a number of other defects, but none of sufficient importance here to enumerate.

XXVI.

Had the State Board taken into consultation Pepper of Philadelphia, Harris, Chairman of the Lackawanna County Board, or some of the active members of the Allegheny County Board, the practical defects in the rules suggested by the State Board would probably have been avoided and the submission of this memorandum unnecessary, but this was not done, nor was the Bar Committee consulted by the State Board concerning the radical departures from the draft prepared by it in response to the request of the Court.

All of which is respectfully submitted.

LUCIEN H. ALEXANDER,
Individually, not as Secretary of Bar Memorial Committee.

*p. 30, *infra*.
†p. 24, *infra*.

EXHIBIT C.

25 Copies Printed
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DRAFT FOR SUPREME COURT ADMISSION RULES PREPARED BY REQUEST OF THE COURT.

(The small numerals refer to the explanatory notes, commencing p. 27.)

JUNE, 1901.

RULE I.[1] No person shall be admitted to practise as an attorney and counsellor of this Court except upon report of the State Board of Law Examiners established by Rule IV, after the registry and period of study required by Rule II or in conformity to the provisions of Rule III.

Candidates for admission shall be of good moral character, citizens[2] of the United States, and at least twenty-one years of age, and shall be prepared for examination in Blackstone's Commentaries, constitutional law, including the constitutions of the United States and Pennsylvania, equity, the law of real and personal property, evidence, decedents' estates, landlord and tenant, contracts, partnership, corporations, crimes, torts, domestic relations, common law pleading and practice, Pennsylvania practice, the federal statutes relating to the judiciary and to bankruptcy, and the developments in Pennsylvania of the principles of the law, as exemplified by the decisions of this Court and statutory enactments.[3]

No action shall be had by the Board of Examiners upon any application for admission unless the candidate shall have

[1] *Vide* Note 1, p. 27, *infra*.
[2] *Vide* Note 2, p. 27, *infra*.
[3] *Vide* Note 3, p. 27, *infra*.

advertised his intention to apply for admission in a periodical, designated by the Board and published in the judicial district within which the applicant intends to maintain his office, and in the *Legal Intelligencer*, once a week during the four weeks immediately preceding his appearance before the Board.[4]

Every candidate, at least twenty-one days before each appearance before the Board on application for registration or admission, shall file the necessary credentials with the Board, in manner and form as it shall require, and shall at the same time pay to the Board a fee of twenty-five dollars[5] for expenses as set forth in Rule IV.

Rule II. Candidates intending to prepare for admission to the Bar of this Court shall satisfy the State Board of Law Examiners, at the commencement of their course of study that they have acquired an academic education equivalent to a substantial knowledge of the subjects taught in such Pennsylvania high schools as may be approved by the Board.[6]

It shall be the duty of every such candidate, who is attending or is about to attend a law school approved by the Board of Examiners,[7] upon receipt by him from the State Board of a certificate recommending his registration and certifying that he is qualified to commence the study of the law, to cause his name, age, place of residence and the name of the law school to be registered with the Prothonotary of the Eastern District;[8] and it shall be the duty of every attorney and counsellor of this Court to register with the said Prothonotary the name, age and place of residence of every person commencing the study of law by the service of a clerkship in his office, who has received a certificate from the State Board entitling him to registration, and the preceptor from the date of such registration shall assume personal oversight and direction of the said candidate's preparation for the Bar so long as he shall remain in his office.[9]

Where the filing of the certificate of registration has been omitted by excusable mistake and without fault of the candidate, or it shall be established to the satisfaction of the Board that the applicant, at the date as of which he desires to

[4] *Vide* Note 4, p. 27, *infra*.
[5] *Vide* Note 5, p. 28, *infra*.
[6] *Vide* Note 6, p. 28, *infra*.
[7] *Vide* Note 7, p. 28, *infra*.
[8] *Vide* Note 8, p. 29, *infra*.
[9] *Vide* Note 9, p. 29, *infra*.

be registered, was in possession of credentials entitling him to the Board's recommendation for registration, and that there has been no *laches* on his part in applying for the latter, the Board may authorize the registration to be made as of the proper date, but *nunc pro tunc* registration shall not be permitted under any other circumstances.[10]

Candidates for admission, who have spent three[11] years since the date of registration in the study of law, either by attendance in the regular course at a law school approved by the Board, to the satisfaction of the faculty thereof, or by the *bona fide* service of a regular clerkship in the office of a practising attorney of this Commonwealth, shall be eligible to appear before the Board for examination for admission to the Bar of this Court if they have complied in other respects with the requirements of the rules of admission of this Court.

Rule III. Attorneys from other states[12] who have practised for five years in a Court of record of the state from which they have removed, and who have been admitted to the Bar of its highest appellate Court, may be recommended by the State Board for admission upon grounds of comity upon producing satisfactory credentials as to good moral character and professional standing, including a recent certificate from the Chief Justice of its Court of last resort, and such candidates shall not be required to pay any fee to the Board for passing upon their credentials, *provided* that no attorney from another state shall be admitted upon grounds of comity, without examination and without the payment of the required fee, unless it shall appear that similar courtesies are extended to members of the Bar of Pennsylvania in the state from which the applicant has removed.

Attorneys from other jurisdictions, who are not within the above provisions, but who have been admitted, after at least two years' study, to the Bar of a Court of record of the State from which they have removed, and who present satisfactory credentials, including a certificate of good moral character and professional standing from the presiding judge of the highest Court at the bar of which the candidate last

[10] *Vide* Note 10, p. 29, *infra*.
[11] *Vide* Note 11, p. 29, *infra*.
[12] *Vide* Note 12, p. 30, *infra*.

regularly practised, may be recommended for admission on the results of examination, after registration in the office of the Prothonotary as provided in Rule II, and residence and study for one year thereafter within this State.

RULE IV. The State Board of Law Examiners, hereby established for the purpose of reporting upon the eligibility of candidates for admission to the Bar of this Court, shall consist of five members[13] of the Bar of this Commonwealth. The Board shall be constituted by appointment of this Court, with one member to serve during one year, two during two years, and two during three years, and at the expiration of these terms appointments shall be made for three years[14]. The members of the Board shall hold office only during the pleasure of the Court. Whenever a new member of the Board shall be appointed for a full term the Board shall organize by the election of one of its members to serve as President[15] and one to serve as Secretary and Treasurer. The President shall be the presiding officer of the Board. The Secretary and Treasurer shall be the administrative officer, and as such shall conduct the correspondence, keep the minutes, preserve the records and discharge the duties of treasurer.

Fees paid by candidates as required by Rule I, and for which receipts shall be issued, shall be forthwith deposited in a depository approved by the Court, and shall not be drawn out except for expenses and salaries, as hereinafter provided, upon order of the Board, signed by the Secretary and Treasurer and countersigned by the President. Full and accurate accounts shall be kept by the Board and a report annually submitted to this Court, summarizing the work of the preceding year and showing receipts and disbursements. From the fees received, after the deduction of necessary expenses, there shall be paid to each member of the Board a salary at the rate of two thousand dollars per annum, and such additional compensation as the Court may from time to time direct[16], *provided*, that if at any quarterly or semi-annual settlement there should not be sufficient funds to pay the

[13] *Vide* Note 13, p. 30. *infra.*
[14] *Vide* Note 14, p. 31, *infra.*
[15] *Vide* Note 15, p. 31, *infra.*
[16] *Vide* Note 16, p. 32, *infra.*

minimum salaries, the balance may be apportioned *pro rata* among the examiners. The expenses shall include such clerical and other hire as may be necessary and additional compensation to the Secretary and Treasurer of two thousand dollars per annum for the discharge of the administrative duties of that office.

The Board shall conduct examinations at least twice yearly in at least three places within the State, and shall, upon application of five candidates, be empowered to hold the same simultaneously at any county seat through proctors appointed by the local Court, by sending the examination questions in advance to the proctors, who in all respects shall be under the direction and control of the State Board, to which the examination papers shall be transmitted for action thereon.

The Board in their discretion may examine at any current examination any candidate who will be eligible to apply for examination before the date of the next following examination, but shall not recommend his admission prior to the expiration of the required period of study.[17]

ENABLING ORDERS.

As the Court will without doubt desire to guard any changes in the rules from being retroactive, it is respectfully suggested that the entry of some such order as the following would prove effective:

AND NOW, this day of 19 , the Court orders that any applicant for admission to the Bar of this Court who at this date is in good and regular standing at the Bar of a Court of Common Pleas of this Commonwealth, may be admitted upon report of the State Board of Law Examiners that he is eligible for admission under the provisions of the rules of this Court heretofore in force and this day amended, and no such candidate shall be required to advertise or to pay any fee to the Board for reporting upon his credentials.

It is further respectfully submitted that in order to accomplish desired results and make the proposed system imme-

diately effective in matters of admission as well as of registration, it would be advisable for the Court to enter some such enabling order as the following, as otherwise it would be three years before any students would be eligible for final examination before the State Board:

AND NOW, this day of 19 , the Court orders that any student at law who, on or prior to this date, commenced the study of the law, and who is within the provisions of the rules governing admissions to the Bar of the judicial district within which he resides or is a student, shall be permitted to apply to the State Board of Law Examiners for its recommendation upon his application for admission to the Bar of this Court at such date as he would be entitled to apply for admission in such judicial district, and the certificate of a Judge of the district to the effect that such candidate is eligible to appear for examination for admission in his district shall be conclusive evidence of eligibility to appear before the State Board for examination for admission to the Bar of this Court.

(The numbered notes refer to the corresponding numerals inserted in the Draft.*)

NOTE 1. In the preparation of this draft there has been an endeavor to condense necessary requirements into as small a space as possible. From a practical standpoint it has been deemed necessary to group the provisions into four rules to take the place of the first four rules of Court, which will be amended if the Bar Memorial is successful. It will be observed that Rule I deals with general provisions; Rule II with students either in law schools or offices; Rule III with attorneys from other jurisdictions; and Rule IV with the constitution and powers of the Board. As it has been assumed that the Board will be expected to adopt its own regulations to cover the details of administration, as occasion may require, minutiæ has been omitted wherever it has not been deemed essential.

NOTE 2. As to whether or not state citizenship should also be required is a question which merits serious consideration. In some states such citizenship is required, in others it is not. As the present rules of the Supreme Court do not specify it, it has not been inserted as a provision in the present draft.

NOTE 3. In grouping the subjects of examination there has been an endeavor to state the great heads of the law without unnecessarily naming sub-divisions; for example, the title "contracts" is presumed to include the sub-titles "agency" and "bills and notes"; "equity" to include such sub-division as "trusts"; "decedents' estates" the sub-titles "wills" and "administrators and executors"; etc., etc.

The State Board will doubtless find it advisable to recommend a course of study (with names of text-books) for the benefit of those who have not the advantages of a curriculum carefully prepared by preceptor or law school faculty, but it is not considered advisable to weight the Supreme Court rules with titles of text books which may become obsolete in a few years.

NOTE 4. The rules in many of the judicial districts require candidates for admission to advertise their applications, that notice may be given those who may know aught why a candidate should not be admitted. It is suggested that there should be such an advertisement within the district wherein the applicant expects to practise, and that it would also be of advantage if all the candidates were required to advertise in one paper within the state, that members of the bar and

* For Bar Committee's Draft, *vide* pp. 21-25, *supra*.

others may have an opportunity to inspect the entire list without the necessity of examining the advertisements in each judicial district. It is said that the *Legal Intelligencer* will print four insertions at the rate of fifty cents per candidate.

NOTE 5. It has been suggested by some that it would be advisable for the final examination fee to be fixed at fifty dollars, on the ground that that sum would not be oppressive to the candidates and would accumulate a fund which might enable the Court to secure the services upon the board of some of the ablest members of the bar. The committee believe, however, that the smaller amount will secure adequate talent and that it has the advantage of being in accord with the amount designated by the Legislature for appearance before the State Medical Board.

NOTE 6. It is believed that it is entirely reasonable to require that candidates shall acquire the education which may be attained without cost within the state. It is not intended that the candidate should have actually attended or graduated from a high school, but merely that he shall have attained an education equivalent to the course therein. It is recognized that there are many men who have acquired first-class educations, who, owing to the stress of circumstances, have been compelled to spend the daylight hours at the carpenter's bench and the blacksmith's anvil. It is believed that such men should be encouraged and no obstacles placed in their path. It is, however, considered important that the power should be left with the board to classify the high schools by approval of such as maintain satisfactory courses, as the standards of graduation from the high schools in this state vary greatly in different counties, there being no state control thereof. As the normal schools, subject to the common school statutes of this Commonwealth, are to this State what the high schools are to most of the other states, it is believed the normal school graduation standard, exclusive of the pedagogic studies, would be the proper one for registration, but it is probable that the term high school would be better understood. By the suggested rule the board will be free to determine the subjects of examination after an investigation of the curricula of the various high schools maintaining satisfactory standards.

NOTE 7. This clause is inserted as there are many institutions called law schools springing up here and there which should not be given judicial sanction; for example, it may be remarked without making invidious comparisons, that there is one in Philadelphia known as the Sharswood School of Law. Its standard is such that it would not be expedient to authorize young men to prepare for call to the bar by sole dependence upon its course of instruction. Its head and main stay is a New York attorney who has twice been refused admission to the Philadelphia Bar. It is submitted that the State Board could be

trusted to exercise an equitable discrimination in preparing an approved list of law schools and in adding thereto. Some courts of last resort approve of all law schools devoting a specified number of hours per week to instruction, but it is believed better results would be attained by an impartial investigation of standards by the State Board, which would always be answerable to and subject to the control of the Court.

NOTE 8. It would avoid confusion if all the registrations were entered in one office, and that of the Prothonotary of the Eastern District is suggested for the reason that the majority of the counties are in that district.

NOTE 9. It is respectfully submitted that this clause is of great importance, as the service of a clerkship in an office is in many instances degenerating into a farce, the preceptor merely lending the use of his name to the registered student, for which he often charges a fee, but extending no supervision to his course of study. In England "Articles of Clerkship" are still required, whereby, in consideration of the services, the preceptor "doth undertake and promise that he will by the best ways and means he may and can and to the utmost of his skill and knowledge teach and instruct or cause to be taught and instructed the said (the student), in the practice of the profession of a solicitor which he the said (the preceptor), now does or shall at any time hereafter, during the said term, use or practice."

No doubt the insertion in the rules of the suggested clause would, in the majority of cases, result in the awakening of a sense of responsibility upon the part of the preceptor, with corresponding advantage to the student and ultimately to the profession.

NOTE 10. Applications are frequently made in some of the judicial districts for *nunc pro tunc* registration. It is believed that provision should be made for such registration in proper cases and without the necessity of troubling the Court to consider them. The suggested provision with reference thereto is believed to cover every case which could arise in which *nunc pro tunc* registration should be permitted. It presents in concise form the doctrine as laid down in a number of decisions of the New York Court of Appeals. As has there been pointed out it is believed that the granting of promiscuous orders for *nunc pro tunc* registration defeats one of the principal objects of the registration requirement, which is to secure a certain educational standard upon the part of students at the *commencement* of their course of professional study.

NOTE 11. It is generally conceded that three years is sufficient for a candidate to prepare for the bar, and although it may not be long until four years may with propriety be demanded, as in the medical profession, it is doubtful if the time is ripe for the incorporation of such a provision in this state, especially as in nearly every judicial district three years is the period of study fixed by the rules of Court.

NOTE 12. The present Supreme Court rules with reference to the admission of attorneys from other jurisdictions do not require that a candidate for admission on grounds of comity should have been admitted to the Court of last resort of the state from which he comes, which admission may be said to be synonymous to admission to the bar of the state. Neither is there any provision in the present rules for the admission of attorneys from other states, by examination or otherwise, who have not practised for five years therein, and the only way by which such candidates may now be admitted to the Supreme Court bar is by the service of the clerkship required and two years' practice in a county court. In the draft submitted the first paragraph of Rule III* provides for admission to the highest appellate court of the state from which the candidate comes, as a prerequisite to an application for admission on grounds of comity, and in the second paragraph a provision is suggested whereby attorneys not eligible for admission on grounds of comity may be admitted upon examination after one year's study within this state. This provision is modeled after the present Allegheny County rule.

NOTE 13. A board of five members is suggested as it is believed it would be better able to accomplish the work of preliminary and final examinations than would a board of three, although the Boards contain three members in New York, Maryland and Georgia.

The administrative officer of the New York Board,† who has served in that capacity since its formation eight years ago, writes:

"Logically a perfect board of bar examiners is composed of one person, for there we have—what is absolutely to be desired—a complete uniformity in all things—in the character and quality of the question papers and in the judgment thereon as to the capacity of the applicants to practise law. The further removed we become from the unit the greater the diversity of thought and of judgment, and greater the differences in opinion as to the proper standard of education and character required for admission to the bar. A difference essentially necessary in the practical administration of the trust, however, and one to be sought after within bounds—for some examiners there should be, who rising from the ranks, have sympathy and knowledge of conditions surrounding those coming to the bar from the public schools and the self-educated as well as those, who coming to the bar sustained by wealth, have had the benefit of university and law school training. The board should be composed of practical men who will seek to raise the standard of the profession by degrees, and by encouraging those who are struggling under adverse circumstances of study, and who are not theorists who believe that those only are of the elect who are of the schools. Therefore a board of more than one is essential; there should be on it men of different views, of dissimilar education and of varying surroundings, yet of experience enough in life and of a judicial temperament that will recognize the right in others, and will harmonize in essentials and agree upon details. The greater the number of the board, the more difficult it will be to procure this necessary condition of uniformity recognizing all the problems involved, and therefore the smallest number, who can handle the work and who will be in this judicial state of mind is the best.

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* p. 23, *supra*.

† Hon. Franklin M. Danaher.

"If three men can do the work in Pennsylvania, three is a better board than five, but as it will take three men longer to do the work their compensation should be fixed according to the fact, and they should expect and be expected to devote their time to the work, when required, as a public duty prior to all other engagements.

"We have three examiners in New York and according to the manner of our profession, each is strenuous, but we harmonize; how it would be with five, we know not. Five is not a large number and would do, but three can work together with less friction and if properly diversified as above set forth and composed of men who love their work for the good they are accomplishing for the profession and the public, is amply sufficient for all purposes.

"I cannot quite determine from the pamphlet enclosed whether you intend to recommend a board consisting of three or five examiners, but in either event, if the administrative branch of the board is properly constituted and managed, you will find that it will take less time than you imagine. We have so systematized in this state that the entire administrative work falls upon myself as Secretary and Treasurer. All the minutiæ and detail of passing upon the preliminary conditions and the conformity of the applications to the rules, and the qualifications for admission *to the examination* are passed upon by the administrative officer without calling the board together.

"You will find that that will be quite essential in order to induce the men of great standing in the profession to assume the duties of a bar examiner, but that necessitates an absolutely fearless and unapproachable man, who is a strict constructionist, and who is not afraid of his job; who can withstand pressure (of which there will be much), and who is for the right and the law every time regardless of consequences. Pardon me—that reads very odd—that's not I—'tis your fellow.

"Such a man to be compensated out of the fees, in whom the board has absolute confidence, will cut the labor of the rest fifty per cent. If your law goes through I will be pleased to show our methods and exhibit our system to any of your committee who call on me to do so. We receive $2000 a year and our extra compensation has been fixed at $500 a year; in addition, we have allowance for clerk hire and all our other expenses are paid."

Note 14. It has been suggested that as the terms of an examiner are five years in many of the states it would be advisable to make the terms five years instead of three years, and to constitute the first board with five members, to serve one, two, three, four and five years respectively. It is submitted, however, that in this state where so much work will devolve upon members of the board (both preliminary and final examinations being necessary), a member of the bar might well hesitate to tie himself up for five years, while on the other hand if his services were acceptable to the Court and his time permitted, he would doubtless be honored by a re-appointment. For this reason it has been suggested that the terms be three years and not five.

Note 15. In the leading state jurisdictions the officers of the state board are usually designated by the names "President" for the presiding officer and "Secretary and Treasurer" for the administrative officer. As the officers of the local boards of Pennsylvania are usually

called Chairman and Secretary respectively, confusion with the officers of the state board would be avoided if the presiding officer were known as President and the administrative officer as Secretary and Treasurer.

NOTE 16. In New York State, although the examiners are relieved from the necessity of conducting the preliminary examinations, as these are under the control of the Board of Regents, for which there is no parallel in this state, they receive salaries of two thousand dollars per annum and such additional compensation as the Court directs. This extra compensation has been fixed at five hundred dollars each. It is estimated that there will at first be from 500 to 900 candidates per year for registration and admission in Pennsylvania. Should there be 700 candidates a fund would be created sufficient to pay the salaries suggested in the rule and leave three thousand dollars with which to cover other necessary expenses such as clerical hire, printing, stationery, renting examination rooms and administrative office, necessary traveling expenses of the Board and incidental expenses generally. For the information of the Court in considering what salaries would be proper for the members of the board, it is estimated that the examiners will doubtless be compelled to give to the work of the Board from one-fifth to one-third of their entire professional time per annum, and that the administrative officer during the first year or two until the system has become settled, will doubtless be required to devote nearly all his time.

NOTE 17. This provision is suggested that a candidate whose period of study will expire between examination sessions may not be compelled to defer his admission until after the next following examination, should he be qualified for admission. This is in accord with the practice in England.